- Jonathan Rowe makes the case against reform in Eastern Europe
- Why you could be thrown out of your home tomorrow
- Reviews by Jonathan Alter, James Fallows, and Michael Massing

The Washington Monthly

NOVEMBER 1990/$3.00

Sharon Pratt Dixon

Can She Make a Big City Work?

by Scott Shuger

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The Washington Monthly

Volume Twenty-Two, Number Ten November 1990

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LETTERS

Fevered Cleavers

Now the S&L crisis is Beaver Cleaver's fault! What nonsense. If I understand your September cover story correctly ["How the Cleaver Family Destroyed Our S&Ls," James Bennet], the American middle class, egged on by *Money* magazine, brought about the destruction of the nation's S&Ls by taking advantage of low-cost mortgages and high savings yields. Is it your thesis that borrowers should have deliberately sought out more expensive loans and savers should have ignored advantageous rates?

That's silly. *Money*'s readers are rational creatures, who with our advice behave in financially rational ways. They didn't deregulate banking nor loot S&L safes. They invested and borrowed wisely under the law.

FRANK LALLI
New York, New York

Mr. Lalli is the managing editor of Money.

The spin doctors sure seem to have gotten to you—or are you they? It's almost funny, placing the "blame" on the average saver, who put his money in an S&L because he couldn't take a chance on stocks or bonds, who took a mortgage to buy a house—or even put some money in CDs, another safe investment.

Of course he received good interest, interest the banks clamored to pay, in many cases because of foolish, venal, or sometimes downright criminal decisions made by those who were entrusted with the savings of "average families."

As for *Money* magazine as a source of reliable information—I think you're leaning on a weak reed. There is no way you can possibly know who all those newsstand purchasers might be—I'd guess the rather uninformed dabblers in TV money advice or readers of best sellers on how to get rich by starting your own business, or maybe those who see the other Peters on PBS. Do you really read that thing and believe it?

MIRIAM ARNOLD
St. Petersburg, Florida

The author replies:

My thesis is that many of the people who are now self-righteously blaming Texans, congressmen, and S&L executives for the disaster should stop whining and start paying for the cleanup, since they in fact were the major beneficiaries of the thrift scandal. Of course (as I wrote) the wicked S&L presidents should go to jail, but the "spin doctors" have overemphasized those crooks' contribution to the crisis. The fact is that some Americans over 40 have benefitted from a far greater proportion of the bailout cost than the crooks did—thanks to the cheap mortgages and money markets that precipitated the crisis and from the high-interest rates thrifts paid then to try to stay alive. Clearly, no one who took out a mortgage in the sixties did so with evil intent, although some who bought outrageous CDs in the eighties realized the thrifts were committing suicide. *Money*'s dubious distinction is that it enthusiastically promoted investments in thrifts and banks it *knew* would probably fail, urging its readers to cash in while they still could at their fellow taxpayers' expense. I never wrote that this was illegal. I wrote that it was wrong. Mr. Lalli's utter failure to appreciate that distinction is stark evidence of *Money*'s moral poverty.

Twin leaks

In the Who's Who column of the July/August issue, *The Washington Monthly* states that "a lie detector test revealed that two of the culprits [of the Bill Gray leak] were Thornburgh's two closest aides, Robert Ross and David Runkel." This statement is incorrect.

The Criminal Division of the Department of Justice and the Federal Bureau of Investigation conducted a thorough investigation of this matter. They found no evidence whatever that I placed information concerning Congressman Gray in the hands of CBS News.

ROBERT S. ROSS, JR.
Washington, D.C.

In the Who's Who column of the July/August issue, *The Washington Monthly* states that "a lie detector test revealed that two of the culprits [of the Bill Gray leak] were Thornburgh's two closest aides, Robert Ross and David Runkel."

This is incorrect. While the FBI investigation into the leak did not discover the original source of information about Rep. Gray, it did conclude that I was not that source. This conclusion has been reviewed and accepted by the Criminal Division of the Department of Justice, the Department's Office of Professional Responsibility, and the Solicitor General, all of which have undertaken independent reviews.

DAVID RUNKEL
Washington, D.C.

Classified

Your use of the term "rednecks" ["Tilting at Windmills," September] is a bit off-putting. It is like the term "yellow belly." It may be a bit accurate from a descriptive point of view, but it is an unfair putdown. These poor guys got red necks from working in the sun at a latitude farther south than what they were genetically built for.

Like most exploited people, a subset will react grossly. But it is a shame to promote the term that represents the group to a metaphor for boorish behavior, where that behavior is found in only a portion of that group.

LLOYD MCAULAY
New York, New York

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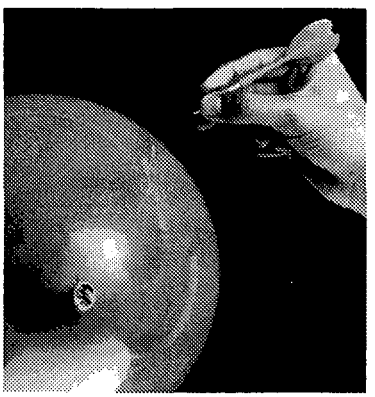

Our editorial philosophy.

The Nation is older than General Motors and the USSR. We even predate sliced bread.

Yet, despite our advanced age, we have never settled for mere respectability.

Indeed, the longer we're around, the more we pride ourselves on disturbing the status quo.

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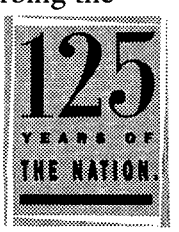

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Please tell this 48-year-old black native Mississippian who has been subjected to the cruelest forms of racial injustice which category or categories you fit in: rednecks, moderates, elitist liberals, or country club Republicans?

DORRIE LADNER
Washington, D.C.

The editor replies:

I'm descended on both sides from Southern farmers who definitely were not part of the plantation set, so I agree with the sentiments expressed by Lloyd McAulay.

Burger beef

I have a question for the authors of "How to Fix the Budget Without Hurting the Country" [Nathan Emerson and Afshin Molavi, September]. What makes them think that any increase in tax income will reduce budget deficits? Are they on to something that nobody else knows about?

I leave the job of skewering the numerous mathematical fantasies to other, more knowledgeable individuals. Let me discuss, rather, the plight of the Hamburger Flipper in regard to the crushing burden of Social Security taxes. There seems to be a number of factors that are consistently ignored. The first and most important one is that he does not work for gross pay. He works because the net pay is satisfactory or, at least, acceptable. Such being the case, the amount of Social Security tax is irrelevant. It can't hurt him for the simple reason that he never gets it to spend.

Second, it is generally assumed that if the Social Security tax were to be lowered or even removed, our H.F. would automatically receive a raise. To refute this, let us assume that you are the Boss with a bunch of flippers around you who are willing to work for, say, $175 a week. Now a reduction in taxes makes it possible for you to reduce your expenses, namely the gross pay, yet provide your help with the same money as before. Or, being the big-hearted Capitalist that you are, you could pass on this unsought and unasked-for bonanza to your help. Which would you do?

JOHN R. CARTER
Earlysville, Virginia

Gore details

In your "Tilting at Windmills" column in the July/August issue, you noted that 96 percent of Senator Al Gore's campaign funds come from outside Tennessee. You went on to ask, "Does this make any sense at all? Why should wealthy New Yorkers and Californians be able to influence an election in Tennessee?"

As a longtime supporter and fan of Senator Gore and as a native Tennessean, the most amusing aspect of the alleged source of Senator Gore's funding is that so many New Yorkers and Californians could be convinced to contribute to a virtually uncontested Tennessee senatorial race. With all due respect to your unusually acute skills of political observation, the vast majority of Tennesseans made up their minds years ago about Senator Gore and "wealthy New Yorkers and Californians" had not a damn thing to do with it.

LUCIA T. PERA
Memphis, Tennessee

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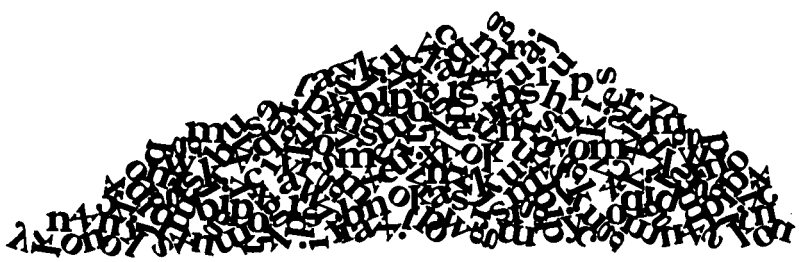
Some businesses are so dependent on their communications system that when a disaster suddenly strikes they lose everything



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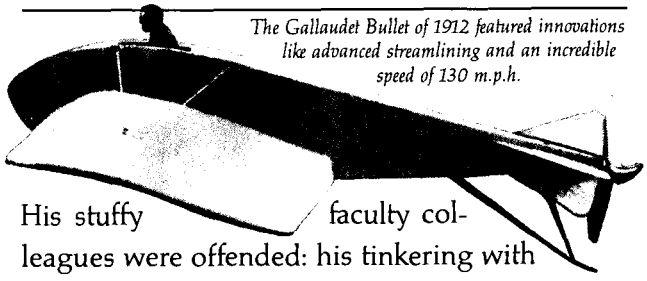
HE WASN'T A WRIGHT BROTHER. BUT HE HAD THE RIGHT IDEA.



The Gallaudet Bullet of 1912 featured innovations like advanced streamlining and an incredible speed of 130 m.p.h.

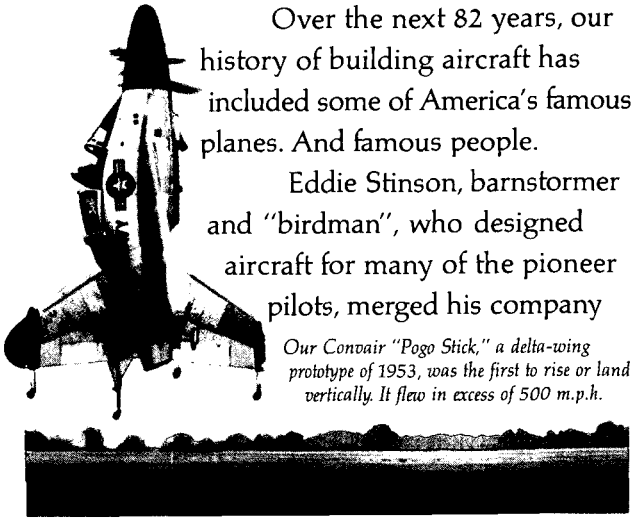
His stuffy faculty colleagues were offended: his tinkering with "foolish flying gimcracks" was "undignified."

But young professor Edson Gallaudet was willing to give up his dignity, and his job, for a new idea about warping the wings of flying machines.

In 1898, he tested a scale model which proved his idea right. And five years later, Wilbur and Orville Wright flew using that same principle.

Today Gallaudet's model is in the Smithsonian, one of two monuments to Gallaudet's inventiveness and persistence. The other is our company.

In 1908, Edson Gallaudet started what many credit as the first aircraft factory in America. Gallaudet Engineering Company became the earliest aircraft ancestor of General Dynamics.



Our Convair "Pogo Stick," a delta-wing prototype of 1953, was the first to rise or land vertically. It flew in excess of 500 m.p.h.

Over the next 82 years, our history of building aircraft has included some of America's famous planes. And famous people.

Eddie Stinson, barnstormer and "birdman", who designed aircraft for many of the pioneer pilots, merged his company with ours. As did Jerry Vultee, whose planes set many distance and speed records, including Jimmy Doolittle's 12-hour cross-country flight.

During WWII, the Consolidated B-24 Liberator went from plan to finished plane in a record nine months and became the most-produced American bomber. After the war, our B-36 Peacemaker became the backbone of America's Strategic Air Command.

Our innovative, delta-wing design made the F-102 the world's first supersonic interceptor. And the B-58 Hustler the world's first supersonic bomber.

Today our F-16 Fighting Falcon is rated

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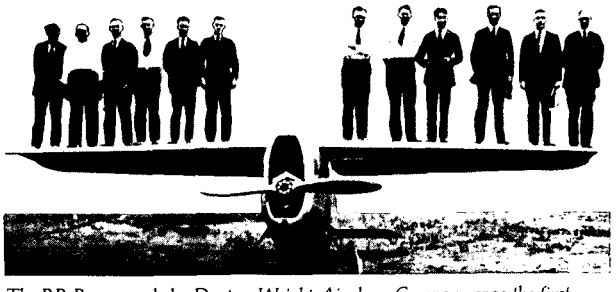
the finest fighter in the world. It well represents our long tradition of craftsmanship and creativity.

Once again, that tradition is about to be tested. In a technology competition against groups from West Germany and Japan, General Dynamics is teaming with four top American companies to develop the National Aerospace Plane.



The RB Racer, made by Dayton-Wright Airplane Company, was the first aircraft to have fully retractable landing gear. Dayton-Wright became an early part of General Dynamics.

To fly from runway to orbit, at speeds up to 17,000 m.p.h., we must invent new science. We must also invent new ways for American competitors to work together. But we are confident.

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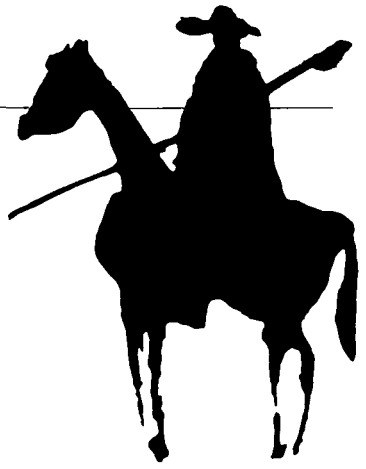
TILTING AT WINDMILLS



Those who think money has to be decisive in politics should ponder the example of Sharon Pratt Dixon, who won the Democratic nomination for mayor of the District of Columbia by spending just $5.38 per voter. Her four opponents spent $15.76, $29.89, $34.43, and $35.33 respectively. . . .

While our troops were broiling in the Arabian desert during August and September, where were the brave leaders of Kuwait they had been sent to restore to power? The princes and their courtiers reside, in the words of Andrew Borowiec of *The Washington Times*, "in the quiet elegance of a luxury hotel" in a mountain resort where "the air is cool and pure," and "where silent waiters incessantly fill tiny cups with scented coffee." . . .

The October 1 issue of *Newsweek* contains a touching tale of an elderly couple in California who, needing money to meet the problems of age, want to sell their house but are unable to get their $285,000 asking price because of the decline in real estate prices. The article attaches no significance to the fact that the couple has rejected an offer of $200,000 even though they paid only $14,000 for the house when they bought it. But doesn't this story really tell us what spoiled children most Americans have become during the real estate boom of the past 30 years? We have come to think that Natural Law demands that we get the highest price the market attained during that period even though the prices seemed absurdly high at the time and even though many of us, like the California couple, could still realize almost unbelievable multiples of our original investment by selling at today's still-generous-if-somewhat-reduced-from-their-peak prices. . . .

The inspiring moral leadership of the American Bar has never been more manifest than in a Delaware Superior Court where Michael Nussbaum, an attorney with the firm of Nussbaum & Wald of Washington, D.C., arguing in behalf of lawyers who were accused of misleading the court, conceded that telling the truth in civil litigation "is, of course, a very attractive proposition," but went on to say, "it is not the way the system operates in litigation in this country." . . .

Snobbery is now more powerful than sex. If you doubt me, consider the advertising done by Victoria's Secret. It used to be firmly in the Frederick's of Hollywood tradition, but it is steadily moving toward the elite atmosphere favored by Ralph Lauren and—if volume of advertising provides any indication of prosperity—the firm appears to be flourishing. . . .

Speaking of our troops in the Middle East, those who had to endure the scorching desert heat during August and September should sue every officer who has held a responsible position in military supply since 1983. For it was then that our troops in Grenada first complained that their uniforms—made of material that was half nylon—were intensely uncomfortable in a hot climate. Troops in Saudi Arabia are wearing the same uniforms.

Frank Johnson, a spokesperson for the Defense Personnel Support

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Center, defended the uniforms as more durable and better suited to a war in Europe. If you recall, we have been spending hundreds of billions on a military budget that for many years was geared to fighting two-and-a-half wars. Were they all supposed to be in temperate zones?. . .

Speaking of spokespersons, when Mary Crawford, the one for the Small Business Administration, was asked if it was not a bit suspicious that 23 of 30 official business trips taken by the agency's administrator, Susan S. Engeleiter, happened to be to or near her hometown of Minneapolis, she told *The Washington Times*: "You can paint any type of picture you want and for every picture you paint, someone else could paint a thousand other pictures." . . .

And speaking of coincidental travel, Gerald W. Frank, an administrative assistant to Senator Mark Hatfield, lives in Oregon and commutes to Washington, D.C. about twice a month. He also publishes an annual "New York City Travel Guide." By odd coincidence, Frank's official taxpayer-financed travel during the past five years has, according to Portland's KATU-TV, included 52 visits to New York City. . . .

Speaking of spokespersons again, have you noticed that almost every governmental unit in America now has one? I'm sure that if you had a complaint about your garbage it would be answered with an artfully evasive response from a spokesperson for the Refuse Collection Administration. What's more, they all use spokesspeak, a language that is deeply rooted in memospeak where "appropriate" is king and "constructive discussions" are the princes of the realm.

Of course, there have always been press secretaries at the White House, but the notion that each bureaucratic unit must have its own mouthpiece did not take hold until Hodding Carter was on the news as the State Department spokesman almost every night during the Iran hostage crisis. I used to want to hurl a book at the TV as Carter droned on. But I didn't know how well off I was. Margaret Tutwiler makes him seem like a model of clarity and crispness. . . .

The Far Left has long contended that America got suckered into the Korean War because the conflict was provoked not by the North but by the South. Now the *Moscow News* has published an interview with Li Sancho, a former North Korean ambassador to the Soviet Union, who says that the invasion was "carefully prepared" by the North.

I mention this because it corrects a long held conviction not only of the Far Left, but of most liberals who came of age in the Vietnam era and assumed that Korea had been just another pointless war that our macho militarists had gotten us into.

Korea was a clear case of aggression, about which we were right to take a stand just as we are right today to oppose Iraq's aggression against Kuwait.

But even in a just cause, we need to keep a sense of proportion. The crisis in the Gulf is not the Battle of Britain. Neither was Korea or Vietnam, even though Douglas MacArthur and Lyndon Johnson tried to convince us the stakes were of similar magnitude in both places. By losing their sense of perspective MacArthur and Johnson caused bloodbaths, the former by crossing the 38th parallel in the fall of 1950, and the latter by sending ground forces into Vietnam in the summer of 1965. George Bush has repeated Johnson's error by sending ground forces to Saudi Arabia. I hope they will be quickly replaced by a largely Arab multinational force in which we play no more than a minor role. If that can't be arranged I think we should still withdraw our ground forces and devote our energies to thinking of ways to make Saddam Hussein's life miserable without risking the lives of thousands of our troops. . . .

Among the many reasons we should switch to the Canadian health care system is this fact from a study conducted by the inspector general of the Department of Health and Human Services: Medicaid paid $474 million more for prescriptions than it would have paid under the Canadian system. . . .

What kind of conference does corporate America feel so urgently meets its needs that it will cough up $995 per person to have its executives attend? "Strategies for Preventing White Collar Criminal and Civil Prosecution" charged precisely that sum for the October 25 and 26 sessions at Disney World. How edifying it must have been for all the children to see their pin-striped elders ashen with anxiety about how to cover up their misdeeds and avoid indictment and incarceration. . . .

The self-importance of Washington journalists has grown steadily since I arrived here in 1961. But even back then, as Dean Rusk points out in *As I Saw It*, there were some notable pioneers in the realm of arrogance: Soon after he took office as secretary of state, Rusk says, "both Walter Lippmann and Arthur Krock sent me messages that, if I wanted to

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call on them, they would be glad to receive me." . . .

"White House Wins Victory at GATT" proclaimed an October headline in *The New York Times*. What was this triumph? An agreement allowing American tobacco companies to sell cigarettes in Thailand. . . .

Maybe you've heard this story that environmentalists tell, but I hadn't until I saw it in a recent *Los Angeles Times*:

"A plane loaded with reporters was flying to see the damage caused by the eruption of Mount St. Helen's. The sight brought gasps of disbelief—it looked," said the *Times*, "like ground zero at a nuclear explosion. It looked like the moon, or hell."

"Wow," they said to their guide.

"Wait a minute," he replied, "we're not at the volcano yet, this is just a clear cut."

As a West Virginian who saw his state raped by strip miners, I was horrified on my first visit to Oregon a couple of years ago to see the same destructive scars created by clear-cutting. Oregonians, save your state while there's still time. In West Virginia, we waited until it was too late, until many counties had been damaged beyond nature's capacity to repair within our lifetimes. . . .

The one problem with Senator Howell Heflin's description of Republicans as "the Grey Poupon crowd, the Gucci-poochie-coochie shoe-wearing, Mercedes-driving, polo-playing, Jacuzzi-soaking, Perrier-drinking, Aspen-skiing, ritzy-rich," is that it also applies to an unfortunately large number of chic liberal Democrats. . . .

Seven years ago, Marion Barry unveiled a reform that substituted a one-stop center for the eight different places contractors and homeowners had to go to get construction permits. Recently, Nancy Lewis of *The Washington Post* followed an applicant through the center. Arriving just after 9 a.m., he found himself 43rd in line. Two hours later, he reached the information desk and two hours after that he was able to get two permits. Because applicants are allowed to get only two permits at a time and the offices close at 3 p.m., he had to come back the next day to get the remaining permits he needed. It was the seventh time in seven months he had been required to repeat this process. The reason: the permits run for only 30 days each. . . .

During the week of the Kuwait invasion, as I was trying to think of the kind of military force we could use that would not risk a lot of American lives, it occurred to me that cruise missiles fired at Iraqi targets from afar seemed to fill the bill. So I asked a Navy veteran I know what ships we had that could fire cruise missiles. He began with, "Well, there's the *Wisconsin*." I later learned that in August the *Wisconsin*'s cruise missiles, if launched, would have been as likely to hit Cairo as Baghdad. It seems that it would take about a month for our spy cameras to take the photographs needed to compose the electronic maps needed to guide the missiles. Will this be true whenever we need these weapons? . . .

A few weeks ago I was having dinner with an old friend from West Virginia who knows the local political situation well. I said I had noticed that there had been a marked decline in the number of lawyers in the state legislature since I had served there in 1961-62. The reason, he explained, is now that the bar association rules permit lawyers to advertise, the fellows don't have to run for office in order to make themselves known to potential clients. . . .

Did you know that almost half of all farm subsidies go to the affluent? In 1988, for example, such farmers, with an average net income of $96,000 per year, received 43 percent of the agricultural subsidies. . . .

In his new biography of William Casey, Joseph Persico quotes Ronald Reagan as saying this about Casey's habit of mumbling: "My problem with Bill was that I didn't understand him at meetings. Now you can ask a person to repeat himself once. You can ask him twice. But you can't ask him a third time. You start to sound rude. So I just nod my head, but I didn't know what he was actually saying." Do you suspect that one of those mumbles might have proposed the Iran-contra plot? . . .

"Nonproductive" time, the time spent on coffee breaks and similar activities, has tripled in the Postal Service over the past 20 years, according to a report by *The Washington Post*'s Dana Priest. And because the cost of wages has gone up during the period, the cost to the government of paying employees for not working rose from $118 million in 1969 to $1.82 *billion* in 1989. . . .

The Boston Globe recently looked into the time of day when the judges who are always telling you how overworked they are actually depart from the court house. Six judges were photographed as they were making their exit. The exact times of departure were 3:33 p.m., 3:20 p.m., 2:35 p.m., 12:05 p.m., 12:01 p.m., and 11:10 a.m. Judge Walter

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J. Hurley, who went home at 12:20 p.m., was described by the *Globe* as "leaving a courtroom so silent and empty that his court officer was able to lie down on a bench and nap the afternoon away." . . .

One of the problems Sharon Pratt Dixon is going to have in carrying out her promise to get rid of 2,000 District employees (see Scott Shuger's article on p. 41) is a series of Supreme Court decisions beginning with *Elrod* v. *Burns* that say that public employees can't be hired or fired for political reasons—the latter, incredibly, even if they were originally patronage employees—unless they are clearly in policy-making positions.

The decisions were the product of a tendency that has been growing steadily over the past century among respectable liberals and conservatives to place their faith not in officials elected by the people but in tenured civil servants, who are not accountable to the people. The result has been the proliferation of self-perpetuating bureaucracies in which comparative merit is determined by credentials or written tests that have at best a marginal relationship to the actual ability to perform the job involved, or, in the many cases where inside influence plays a role in hiring or promotion, by the "buddy" rather than the political system of patronage. Under the buddy system, you get the job not because you have worked in a campaign, but because you live next door to a civil servant who gives you advance notice of a vacancy and gives you sophisticated advice on how to tailor your application to the job description—and sometimes even tailors the job description itself—so that you are the one selected.

An unfortunate byproduct of the civil-servicing of America is that political parties can no longer reward those who work in campaigns with jobs. So now large sums have to be raised to pay professional campaign workers.

And because officials who are elected are not free to choose as subordinates those who believed in their programs enough to have campaigned for them, the officials have to accept subordinates from the civil service who are indifferent to their programs. Finally, because the parties don't have patronage, they have little power. The vacuum has been filled by the political action committees controlled by special interests.

Since the founding of this magazine, we have been largely alone in arguing the pro-patronage position. But the most recent Supreme Court decision last spring seems to have awakened at least some of the respectables to the smug stupidity that characterized its reasoning.

It is, as Justice Scalia pointed out in his dissent, "rare that a Federal administration of one party will appoint a judge from another party. Thus the new principle that the Court today announces will be entered by a corps of judges (the members of this court included) who overwhelmingly owe their office to its violation. Something must be wrong here and I suggest it is the court."

Now that Scalia's reasoning has been applauded by such eminences as David Broder and George Will, one can't help but think the other respectables won't be far behind. Still, the power of the conventional prejudice against patronage is so great that arguments against it were not even mentioned until the 13th and 17th paragraphs of the two stories about the case that appeared in *The New York Times*, and were not mentioned at all in The Associated Press story that appeared in *The Washington Times*.

I know that this prejudice is so strong that at this very moment many of my readers are saying "Charlie, do you mean to tell me you are for hiring a bunch of incompetent political hacks?" The answer is no. There is no reason why we cannot require that political appointees be able to do a job. But from the qualified applicants, shouldn't an official be able to choose those who are dedicated to helping him carry out his program? I would hate to think that I had to hire people to work at this magazine solely on the basis of their competence and without regard to their commitment to the aims and ideals that are at the heart of the *Monthly*.

Certainly there is a case to be made for a small core of civil servants, not just to show the new fellows where the bathrooms are, but to carry the lessons of experience from one administration to another. But when a government has become as inept as the District of Columbia's, its leader should have wide latitude to clean house from top to bottom. What does democracy mean if not that we can change the government with our votes?

Clearly, Ms. Dixon needs some good lawyers, not only to straighten out the Supreme Court but for the other important missions discussed in Shuger's article. As a matter of fact there happen to be hundreds of talented lawyers in this city who are doing work that, if it is not actually demeaning, is certainly not something they will be eager to tell their children and grandchildren about. Many of them actually started out with high ideals and have lost their way. I would like to speak to them from the heart right now and say: Why not seize this opportunity to join the new administration and do work you can be proud of? . . .

—*Charles Peters*

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The Stupidity of Free-Market Chic . . .

. . . in the Middle East

If Americans understood that there's no such thing as a free market, they'd realize there are better ways to break Saddam than going to war

by James Bennet

As compensation for the loss of a good chunk of their ideological foundation in the past two years, American conservatives have had the satisfaction of watching liberals slink quietly away from their old economic biases. Surveying the "end of history" a year ago, George Will merrily observed, "There are a few brackish backwaters of Marxism—Managua, Pyongyang, Cambridge, Massachusetts—but no longer is it *de rigeur* for 'advanced' thinkers to think that bourgeois society is a backward, doomed stage of development toward a shimmering socialist future." The subsequent success of Violetta Chamorro in Nicaragua and John Silber in Massachusetts suggests it's getting less *de rigeur* by the day. A friend in Cambridge reports that guests make fun of her for keeping Marx on the shelf.

Mercifully, no one freely uses the word "corporate" to mean "evil" anymore. Liberals are finally willing to recognize that businessmen can contribute to society. But many are settling on a new bias that is no less knee-jerk—that "free market" means "good," which leads to the dangerous assumption that government intervention inevitably sours the economy. This bias pervades the breathless reporting on economic change (always called "reform") in the Soviet Union and Eastern Europe (see Jonathan Rowe, p. 20). It is also affecting the way Americans view their own government, as free market chic creeps from the editorial pages of *The Wall Street Journal* into the organs of conventional liberal opinion. "Re-regulate?" asked *The New York Times* last summer in a classic editorial oversimplification of the debate about transportation and telecommunications. "Not on your life."

This spreading bias has manifested itself most starkly in the American response to Saddam Hussein. George Bush, who in some ways—working through the U.N., bringing the Arabs on board—has handled the Middle East crisis superbly, nonetheless seemed far more willing to send tens of thousands more potential victims into the desert than he was to offset the economic impact of the invasion by tapping the strategic petroleum reserves—or even by calling vigorously for conservation at home. By the time Bush finally opened the reserves, it was too little, too late. "[T]he core explanation for the administration's caution seems to be a deep reluctance to tamper with private markets," reported the *Times*, which to its credit endorsed the idea of tapping the reserves early in the crisis. Meanwhile, the closest Bush has come to issuing a clarion call for national sacrifice on behalf of the military effort has been to point out in an advertisement during a baseball playoff game that if our troops in Saudi Arabia can take the time to send in

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their absentee ballots, Americans at home can certainly take a few moments to go to the polls. Few liberals are outraged about this laissez-faire approach. We may be on the verge of war in the desert, but here in the U.S. it's still business as usual. Why? Perhaps because today's *de rigeur* thinking precludes the notion of government using the national economy as a weapon.

The free-market bias has served to short-circuit public discussion of the crisis. Recently on National Public Radio's "All Things Considered," Philip Verleger of the Institute for International Economics was asked why American companies were selling gasoline abroad when we might soon be facing shortages at home. He admitted the sales "may seem to be unpatriotic" but offered this justification: "It's hard to explain to voters, but it's how the market works." Oh. That's okay, then. Meanwhile, Americans have continued sucking down gasoline at virtually the same rate as before the crisis, as though their consumption had nothing to do with the national predicament. This victory of the consumer over the citizen must be what everyone means by "the triumph of capitalism." Unfortunately, the pricing scheme of this free market seems to be slightly off: Blood may still be thicker than water, but in America it's now cheaper than oil.

Gas attack

The tragedy of the widespread acceptance of this business-as-usual response is that, were Bush willing to consider options that involved government intervention in the economy, he might have stumbled on a more elegant means of sticking it to Saddam—one that wouldn't cause inflation or kill Americans. The OPA would have shown him the way. Thrown together in the early days of World War II, the Office of Price Administration eventually controlled almost every price—of any dress, any peach, any stove or pork chop—in the United States. While the broader history of the OPA holds some important lessons for free marketeers (which we'll come to), of immediate interest is one specific OPA program: gasoline rationing. During World War II, bold leadership and a widely perceived threat persuaded Americans to cut the nation's gasoline and fuel oil consumption almost in half.

The federal government first resorted to gasoline rationing on the East Coast to deal with a real, immediate shortage, unlike the perceived shortage we face today. In May 1942, pipelines to carry oil from Texas and Oklahoma to the East had not been completed, and oil tankers were providing target practice for German submariners. Today, we have plenty of oil, since Iraq and Kuwait accounted for only 3.5 percent of our supply—an amount that swollen U.S. public and private reserves plus increased production by oil-exporting nations could easily offset until the boycott starves Iraq. Indeed, you might think that after punching in an 8 percent reduction in the world's supplies and coming up with a doubled price of oil, the free market would check the batteries in its calculator. But the market (sorry, but we all affectionately personify it these days) is adding in other factors: The price rise is based not on the current cut in supply but on expectations that there's going to be a war.

It seems reasonable to assume that the market could be either right or wrong about this. If the market is right, then the government should be intervening to prepare Americans for the economy-wrecking oil shortages a Persian Gulf war would cause; if the market is wrong, then the government should be intervening to head off the inflationary effects of a purely speculative doubling of oil prices. Either way, we should be doing something to counter the economic threat that Saddam is posing to the United States in addition to the political threat he's posing to the world order. Stationing troops in Saudi Arabia may help with the second problem, but only by exacerbating the first. Gas rationing, in concert with the boycott, could have handled Saddam on both counts, without loss of life.

Just the ticket

Within a month after Pearl Harbor, ration boards made up of volunteers recruited and organized by the OPA were allocating tires in every American community. Eventually, these boards managed 18 rationing programs, including shoes, coffee, meat, and canned fruit and vegetables. After being rationed on the East Coast, gasoline was added to the responsibilities of all boards in December 1942, not in order to preserve gasoline, which was running short only in the East, but to preserve rubber.

Motorists were entitled to one of three ration tickets, depending on their needs as determined by a board. An "A" card went to all car owners to cover basic requirements like getting to the store. It was the only ration for which those with no war-related reason to drive were eligible. "B" cards went to people who couldn't car pool or use public transportation to get to and from work; the amount of the ration depended on the distance the holder had to travel. Car owners who had to travel in the course of working were issued "C" cards. This category included maintenance men, candidates on the campaign trail, and, believe it or not, doctors (today, the only guys making house calls carry pizzas). Commercial users of gasoline, such as truck and bus lines, received special

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"T" coupons, and farmers got "R" coupons for their tractors and other equipment. When a motorist paid for his fuel, he would also hand over the requisite number of coupons. It's this community-based system that makes rationing a superior tool for cutting demand than the free-market liberal's cherished device, the gasoline tax. A gas tax large enough to quickly cut demand could never discriminate as precisely on the basis of need-to-travel and as a result would be extremely inflationary.

Most people cooperated, though many complained to their local board, which had limited authority to issue extra coupons in hardship cases. As one Oregon housewife put it, reporting in an official history of the OPA on her five years' work as a volunteer board clerk: "We discovered that the American people are basically honest, and talk too much." Although demand for motor transport shot up as the wartime economy began humming, the results of the rationing system were impressive. The average gas consumption per passenger car went from 607 gallons in 1941 to 416 gallons in 1943. During that same period, total annual private car consumption dropped from 18 billion gallons to 10.8 billion. In his memoirs *Promises to Keep*, Chester Bowles, who served as Connecticut district administrator for the OPA before becoming head of the national agency in the summer of 1943, wrote, "The program worked for two reasons. First, we went to great lengths to explain it constantly to the public, and second, everyone recognized that the decision in regard to his ration was made not by some bureaucrat in Washington but by members of his own community who served on the local volunteer ration board."

The New Republic declared in 1944, "On a makeshift and extemporized basis, detailed and complicated controls beyond anything in American history have been imposed. And instead of runaway prices, most prices have been pegged." Meanwhile, "Farmers, labor, and corporations are making the biggest profits on record."

According to the experts, Saddam Hussein's original goal in taking Kuwait was to force the increase in oil prices that OPEC wouldn't support. Through gas rationing, the United States, which buys more oil than the six other top oil-consuming nations combined, could have taught him an unforgettable lesson in demand-side economics. By using rationing to keep demand in check, the United States could have held the price of oil at its pre-invasion level of $21 per barrel, or lowered it. Meanwhile, the boycott, combined with the threat of air strikes should Iraq make a move for Saudi Arabia, could have closed the noose around Saddam's neck without deployment of ground forces. In other words, we would have all the benefits of the actions Bush has taken so far with none of the costs: no unpredictable shocks to the economy, much less risk to human life. Yes, this synopsis has blithely skipped over a number of complications, such as the inevitable black market. But the stubborn fact is that rationing worked before. If our crooks and our economy have since become more sophisticated, so have our cops and our economists. Rationing at least merited serious consideration, but free marketeers would instantly lose their membership cards if they dared clear their throats and raise the idea. Let's hope they don't have greater cause to regret this than just a recession. Bush would have a far easier time convincing Americans oil is worth rationing than he will convincing them it's worth dying for.

It should worry Americans profoundly that the administration is not considering rationing or even less ambitious demand-side reforms—from lowering speed limits to limiting business tax deductions for employees' parking costs—that would constitute "interference" in the market. Unfortunately, this failure is perfectly consistent. As *The Wall Street Journal* observed of the Sununu-Darman-Boskin triumvirate that shapes domestic and economic policy: "Under their approach, economic growth is the holy grail, free markets are sacrosanct, and free trade is the American mantra. They constitute a powerful 'blocking coalition' that swats down proposals at odds with this philosophy." Lyndon Johnson could have taught this threesome something about the wisdom of locking out opposing counsel.

It seems gratuitous to point out that blanket condemnation of government regulation is as silly as blanket advocacy of it. But then along comes the staid *New York Times* to elevate silliness to a virtue: "Deregulation has been a triumph. That flies in the face of traditional liberal reliance on government regulators to protect ordinary consumers. That image was relevant in the 19th century, when farmers needed protection from monopolistic railroads. But it does

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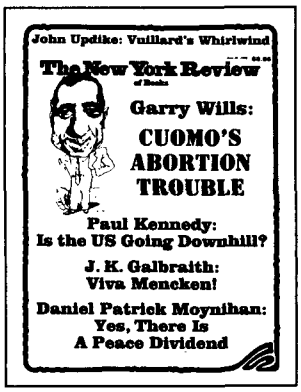

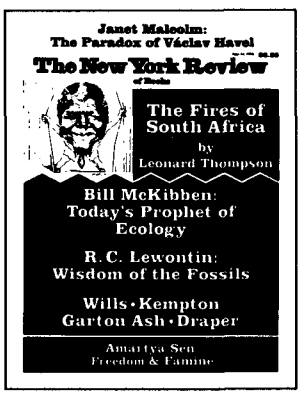

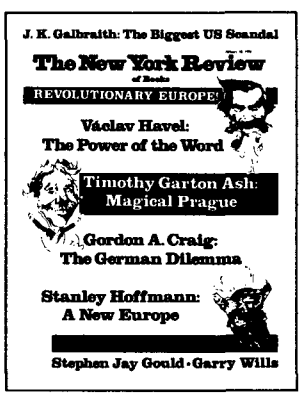

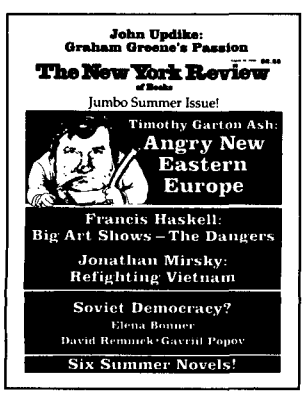

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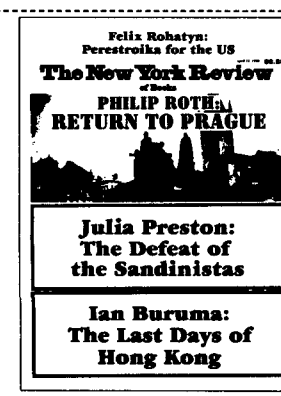

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not easily apply to the modern economy, even in industries with limited competition." Huh? Writing off the advances in consumer protection in 20th-century America is like writing off the progress in Italian art after the 15th-century. The system may have creaked and groaned, but some good work got done. Auto safety comes to mind. So does clean air. Followed by clean water, food inspection, traffic lights, and the jailing of Ivan Boesky.

Probably the most extreme case of government interference in the American marketplace occurred during World War II, through the offices of the OPA. It's an instructive example, because, unlike Richard Nixon's clumsy "Phases," which free marketeers trot out whenever anyone mentions price control, the OPA's regulation was so encompassing—and it worked so well. Because of the American experience in World War I, when widespread profiteering spawned massive inflation and 22,000 new millionaires, Roosevelt was actively investigating the merits of price stabilization by the time of the Battle of Dunkirk in May 1940. In February 1941, his early team of stabilizers enacted the first of their "price schedules," intended to control prices of second-hand machine tools. The government had no legal authority to enforce the measure. "The legality of these price schedules is unquestionable," Rep. Henry Steagall noted wryly. "They rest firmly on the constitutional right of free speech."

While Congress was burning up seven months dickering over the Emergency Price Control Act that FDR requested, OPA was rushing ahead with its preparations. The agency grew tenfold in its first year, raiding the staffs of moribund agencies and the faculties of universities around the country. By the time Congress passed the bill in January 1942, John Kenneth Galbraith, as head of OPA's price division, had already placed about half the country's wholesale prices under control by issuing price schedules, brokering voluntary agreements, and sending out threatening letters. The speed and flexibility with which OPA acted owed a great deal to the novelty of the operation and the youth of the staff: In the spring of 1942, the average age of the OPA administrator and his chief deputies was barely 30.

As OPA went to work, the inflationary pressures were becoming enormous. War planners calculated that the military alone would need $100 billion annually to fight the two-front war. In 1940, the entire American GNP was just under $100 billion. OPA's big thinkers quickly discovered that their item-by-item, "selectivist" approach to price control was insufficient. As Rep. Albert Gore declared in urging a more universal approach in the fall of 1941, "To try to halt general price levels by placing a ceiling on selective commodities is like trying to impound a stream by building a dam only halfway across it." On April 28, 1942, OPA issued the General Maximum Price Regulation ("General Max"), which controlled all goods and services not already controlled. In effect, OPA had taken over the entire marketplace.

Despite the controls, inflation continued to drift upward until FDR's famous "hold the line" order of spring 1943. Shortly thereafter, Bowles, the new director of OPA, stopped inflation dead. *The New Republic* declared in 1944, "We are fighting a war and getting rich too. . . . The system is under attack from every side. Labor wants higher wages. Farmers want higher prices. Corporations want to end renegotiation. The legislature hates subsidies. And yet the darn thing runs. . . . On a makeshift and extemporized basis, detailed and complicated controls beyond anything in American history have been imposed. And instead of runaway prices, most prices have been pegged." Meanwhile, "Farmers, labor, and corporations are making the biggest profits on record . . . national income is roosting in the tall pines." Between 1940 and 1943, liquid savings by individuals increased more than nine times. And what about inflation? "At this point in World War I . . . cost of living was up 64 percent. Today, cost of living is up only 26 percent. And in the past 11 months, according to Mr. Bowles, there has been no upward move in the cost-of-living average at all."

The 16-cent decision

As with rationing, Bowles believed that the keys to OPA's success in controlling prices during the war years were the 5,600 price and ration boards, staffed by a quarter-million volunteers working on average 32 hours each week—"by all odds the greatest grassroots administrative effort in our history," he wrote. "A volunteer member of a local ration board was subject not only to heavy pressures but often to considerable abuse. He had to be part public servant, part diplomat and part publicist." Here's an example of how these boards functioned, taken from the March 8, 1944 minutes of Board No. 31 in Washington, D.C. As background, you should know that anyone who was overcharged had the right to sue the merchant for triple the amount of the overcharge or $50:

Fourth case. Mr. B. reports that he purchased at this delicatessen a box of crackers for 45 cents, he presented a receipt showing he had been overcharged by 16 cents.

Mr. S. asked Mr. A. if he had anything to say. His reply was he was taken to the hospital in January and came back to his store the middle of February . . . that truthfully he was not aware of the cor-

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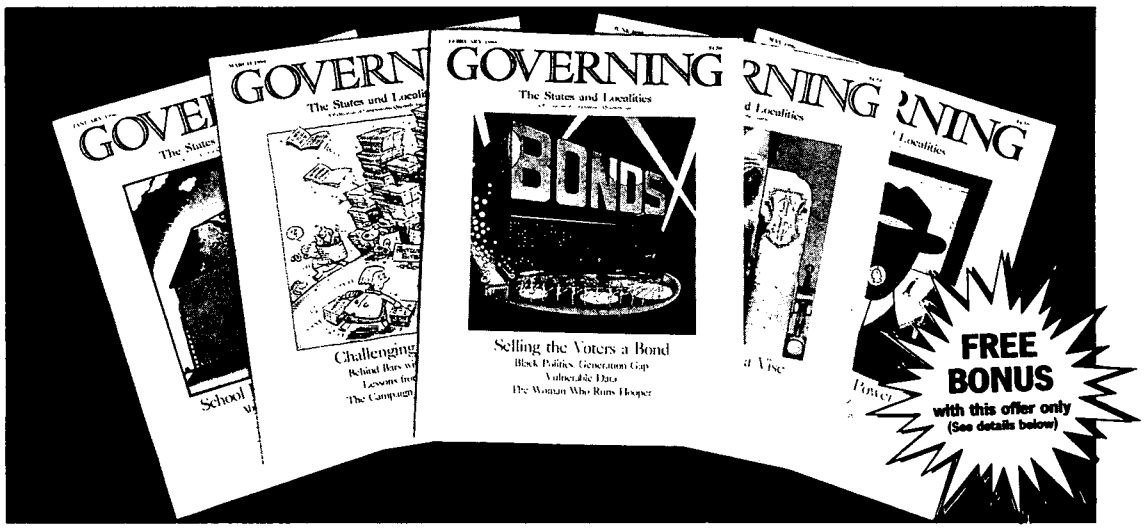

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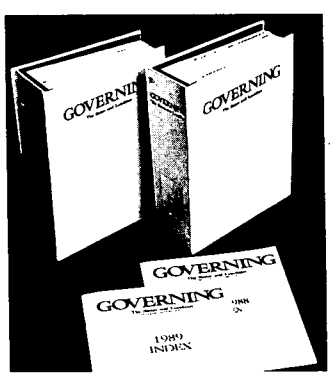

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rect selling price until he called the price clerk and had her figure his mark-up. He offered to refund the 16 cents to Mr. B. He asked the panel members if they thought he would be so foolish to give a receipt if he had any intention of wrongdoing. Mr. S. asked Mr. B. what he wanted and Mr. B. replied he thought he would take it to court and sue for $50 damages.

Mr. S. reminded Mr. B. . . . This man (grocer) had been checked six times in the past 3 months and each time was found in compliance and had never had a complaint or occasion to be called before the board before . . . he would advise Mr. B. to give Mr. A. another chance and then if he is caught willfully overcharging he will be dealt with severely by the board.

At this point Mr. B. made the statement he would think it over and on second thought he probably wouldn't sue at all.

Money will be refunded. Case dismissed.

While the OPA was in full swing—from the spring of 1943 to the spring of 1945—the Bureau of Labor Statistics' index of consumer prices rose *less than 2 percent*. The coalition that had kept the agency going began to unravel after V-J day, however. By the end of the war, pent-up demand for consumer goods was staggering. Advertisers had kept consumers primed through the lean war years: "Many dealers have Coffeemaster, but if your dealer should not, it is because of the 'all out' war production program at the Sunbeam factory. In such a case, put Coffeemaster on your 'VICTORY LIST' of things to get *first* when peace returns. (We'll continue to advertise so you'll remember.)" Americans had been saving at a rate of $33 billion per year, and they were ready for their reward. So were manufacturers and retailers.

The backlog of demand wouldn't have been much of a problem had controls stayed in place until factories returned to producing consumer goods. But the price control line began to bend too soon. In the summer of 1946, Congress passed a new price control bill that was stuffed with exemptions for assorted industries. Bowles wrote Truman that "the bill would simply serve to legalize inflation" and resigned. By fall, Truman, lashing out at the "few men in Congress who, in the service of selfish interests, have been determined for some time to wreck price controls no matter what the cost might be to our people," was forced to lift first controls on meat, then on all wages and most prices. Consumers quickly bid up the limited goods available, and inflation soared. As Harvey Mansfield wrote in his official history of OPA, "Decontrol was not a rational triumph of enlightened self-interest."

State control of prices clearly can be a disaster in the long term. You don't have to go to Eastern Europe for evidence. Just consider the condition of housing in New York City: City government control of rents—a holdover from World War II—has forced up prices on uncontrolled apartments, discouraged new building, and encouraged landlords to harass their tenants and let their property go to seed. But as the OPA proved, over the short term even massive government control can work.

How much for the girl?

Even more important, a degree of state control over the economy in the long term is crucial to prevent abuses of the environment and of workers' and consumers' health—again, a point that seems self-evident after a moment's reflection. This is the most dangerous deficiency of both the current prevalent bias and the former, pro-regulation one: The shorthand terms of debate over economic issues—"free marketeers" on one side, "big government" types on the other—hide more than they reveal. It's ridiculous to talk about American "free" markets, since the government is constantly interfering to invent new markets and modify existing ones—creating a tax break for companies that make ethanol, for example, or outlawing child prostitution. Would free marketeers argue that the Emancipation Proclamation constituted illegitimate government interference in the marketplace? Should we "deregulate" the nuclear weapons trade? How about ownership of property? Even George Bush's solution to the Gulf crisis—sending troops to Saudi Arabia and cutting off the Iraqi pipelines to restore OPEC's role as peaceful price-fixer—is just price control by another name (war) and with an added cost (human life).

By regarding the government and the market as antagonistic forces rather than cooperating and compensating ones, Americans blind themselves to the vital importance of the federal government's most peculiar institutions: the regulatory agencies, where so much of the action is and so little of the reporting gets done (witness the S&L debacle). The pertinent question isn't whether or not there should be government interference but what form that interference should take—that is, how Americans as citizens define the marketplace for Americans as producers and consumers. Those definitions depend more on nuance than on the yes or no of "free market" and "big government."

Deregulation of the trucking industry has in many ways resulted in better service to the consumer; small entrepreneurs have been allowed into the marketplace to compete, lowering prices. But at the same time, deregulatory zeal has led the federal government to neglect vital safety issues, such as size and maintenance of trailers. Likewise, airline deregula-

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tion has resulted in better service for long-distance passengers. But it's also permitted a handful of large airlines to divide up the country into distinct regional monopolies, shutting out smaller competitors and jacking up fares on less-traveled routes. The solution isn't what the *Times* calls "re-regulation," by which it must mean a return to the days of the Civil Aeronautics Board and regulated routes and fares. It's to use new government regulation to carefully eliminate the natural barriers of the industry that we've discovered as the government-shaped air travel marketplace has developed in the past few years, thereby allowing market forces to go to work. Ditto for the cable television industry.

These days, the collapse of the S&Ls is the favorite example of the perils of "deregulation" for the remaining big-government types and for those free-market liberals still anxious to assert their lefty credentials. The problem is, they're wrong. The industry was in fact doomed by stupid regulation in the late sixties. Much of the "deregulation" of the early eighties—widely regarded on the Left as the financial sector's answer to crack—was needed, and faulty primarily because it came too late. The real problem behind the rapid escalation of the S&L mess in the eighties was not "deregulation" but an absence of "oversight" (that is, enforcing the rules that remained on the books and analyzing the market to ensure they were adequate). That problem arose because the free-market Reaganauts confused the two terms. Now the big government crowd, thrashing around in the same Manichean universe, is making the same mistake.

A free-market bias that discourages any intervention in the economy can have exactly the same negative effect that wage and price controls can have: freezing inequities and inefficiencies into place. The government has to be flexible enough to respond to developments in the marketplace in order to fine tune it—opening access to airline hubs, increasing emissions and mileage standards for cars as the technology improves, determining the legitimate uses of genetic engineering in humans. That means voters have to understand that the choice isn't between the free market and big government, that the distinction harshly symbolized by Bush's joyriding in his cigarette boat—between citizen and consumer, between republican life and economic life—is phony. Individual economic action inevitably has consequences for political life, and vice versa. If today's voters and politicians understood that as well as those price and ration board volunteers did, they'd realize that the national economy, as the aggregate of all our individual getting and spending, should be recruited to serve the national interest long before any 18-year-old. □

The Washington Monthly

JOURNALISM AWARD

FOR AUGUST 1990 IS PRESENTED TO

Neal Templin

The Wall Street Journal

What happened when the Miller family's Ford Escort was hit head-on by another car near Carlsbad, California might seem curious: The father and mother, who were riding in the front seat, survived without permanent injury, while one of their 11-year-old twins in the back seat was killed, the other paralyzed. Why the awful difference? The adults were wearing the lap-and-shoulder harness belts installed by law in the front seat; the children were wearing only the lap belts required at the time for the back seat. Templin reports that the phenomenon is not unique. Each year there are 25 fatalities and 500 injuries—many of which disable children permanently—that would not occur if all cars had rear-seat shoulder harnesses.

The reason for these tragedies? Templin tells us that American auto manufacturers have known about lap-belt-only hazards since the early sixties but for cost reasons have resisted three-point rear belts. And Congress and federal regulators have let them get away with it for more than 20 years—back-seat shoulder harnesses didn't become mandatory on new cars until December 1989. As a result, 120 million cars on America's roads are unnecessarily dangerous. How much would it have cost to have added the safer belts in 1968 at the time of the original seat belt legislation? About $20 apiece.

The Monthly Journalism Award is presented each month to the best newspaper, magazine, television, or radio story (or series of stories) on our political system. Nominations for any newspaper, magazine, or radio or television station in the country are welcome. The subject can be government in its federal, state, or municipal manifestation. Please send nominations to Monthly Journalism Award, 1611 Connecticut Ave. NW, Washington, D.C. 20009. Two copies of the article or broadcast text should accompany the nomination.

Nominations for stories published or aired in October will close November 15. The winner will be announced in the January/February issue.

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The Stupidity of Free-Market Chic . . .

. . . in Eastern Europe

How American economics is hurting Polish capitalism

by Jonathan Rowe

A visitor arrives at the Warsaw airport with well-formed expectations, and at first Poland doesn't disappoint. The customs agent is dressed in an army-surplus-style uniform too big around the waist, and the clutter behind the baggage claim counter brings to mind the office at a refrigerator repair shop. The general ambience resembles a Worcester, Massachusetts airfield circa 1957.

The outskirts of Warsaw offer more along this line. Weathered old folks, like peasants in elementary social studies texts, pedal ancient bicycles along the main road. There are cabbage fields and nondescript structures where in America the shopping centers and Burger Kings would be. A power plant belches smoke in the distance, and everything seems tired and gray like an old house going to seed.

It's easy to see how visiting journalists, traversing the route from airport to Holiday Inn and going on to the offices of politicians and intellectuals, could imbibe this view. In truth, the sorry state of the East Bloc was always a little comforting to Americans, especially when their own economic problems were getting out of hand.

On this particular trip, however, our host drove a little further, to a town called Milanowek about 20 miles outside Warsaw. I was there at the invitation of an American environmentalist and small businessman named Hank Ryan, who has initiated a sister cities program between Milanowek and his own hometown of Winstead, Connecticut. A former country retreat for wealthy Warsawites, Milanowek today is a combination suburb and small factory town, with truck (actually horse) farms on the fringe. It is quite comfortable by Polish standards. But it has no sewers and many dirt roads, plus a huge debt that the old communist government left behind. To an American, it seems a hamlet that time passed by.

A week in Milanowek hardly qualifies me as an expert on Poland. But what I saw there suggests some significant gaps in the press reports coming back to the American public. For one thing, Poland has a lot of private entrepreneurs. They didn't spring up overnight, like the farmers' markets in Warsaw that the press has been doting on as the harbingers of a Capitalist Spring. Many did quite well under the communists. But they kept quiet for the most part, giving rise to a kind of reverse Potemkin Village effect in which things seemed poorer than they actually were.

Now these entrepreneurs face a new challenge: the

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measures designed—at the urging of American economists—to thrust Poland headlong into a free-market economy. So confident in their theoretical models and their top-down prescriptions, these economists don't seem to know or care very much about the entrepreneurs who actually comprise the market they purport to create.

The second point is more elusive but no less important: Economics has become virtually the only lens through which we view developments in the former East Bloc. There's a great deal about Poland, and especially a town like Milanowek, that doesn't show up in the GNP. Family ties are strong. People eat at home, their foods often grown locally. There is not much packaging, litter, or waste. People still read. Boom boxes don't disrupt the parks. Shopping malls haven't replaced the traditional town center, which reinforces a sense of social cohesion and community.

There are no billboards, no neon, no carry-out; the shops are marked only by nondescript signs. Despite myself, I felt at first restless and deprived. No place to go for coffee and a bagel, not even a Hershey bar. As the days passed, I began to feel unburdened and relaxed. If time stopped in the fifties in Poland, then a town like this is the good side.

To a Western economist, though, such things look like poverty and underdevelopment; when people sit around the family dinner table instead of going to McDonald's and a movie, there is no cash transaction, little for the GNP. Yet the family dinner table represents a kind of cohesion that Americans are groping to recover. In some ways, Poland is ahead for being behind.

This is true in the political realm as well. Poles share a memory of suffering and oppression that has helped them tolerate hard economic measures with relatively little wailing and self-pity. Under the free market crash program, they have endured a drop in purchasing power of somewhere between 30 and 40 percent. In the U.S., by contrast, wealthy Americans have conniptions at the possibility of a tax increase of some 2 or 3 percent. Their idea of a sacrifice is a capital gains tax cut.

This may sound patronizing, but at least some Poles think about these things, and wonder just how much of the American model they actually want. "Most people in Poland don't realize that they have very good things apart from the political and economic problems," says Andrzej Moes, Milanowek entrepenuer and chairman of the newly elected town council. "We are not so spoiled by industry, commerce, and technology. We have more calm living." What strikes an American is how little our economics has to offer in terms of social cohesion, beyond the rudiments of stoking up the GNP machine. (It is not clear how American economists qualify even on that limited ground these days.) Questions such as what makes a town livable, what makes families close—we might well be seeking advice from the residents of Milanowek, rather than them seeking it from us. "Poles have a chance to ask basic questions that we stopped asking long ago," says Andrew Golebiowski, director of the Polish Municipal Training Programs for Sister Cities International.

Lifestyles of the rich and Polish

Most of the homes in Milanowek lie behind heavy gates. This is tradition, but that the gates are often closed shows, I was told, a growing concern about crime. Poland's free-market tonic has brought rising prices and—for the first time in memory—unemployment. (Previously, everyone had jobs, though many didn't have work.) One widow in Milanowek keeps a stun gun on her kitchen table.

Such precautions seem a bit exaggerated even for a visitor from New York City. Milanowek is a quiet and almost idyllic place. Tree-shaded streets ramble towards the town center, where people go to shop or catch the train. Elderly couples, as well as mothers and children, pedal along on fat-tired bikes, net shopping bags over the handlebars.

Until recently, the shop buildings belonged to the state, so the commercial presence is muted. It can take days to realize how many stores there are in town. There are Sam Spozywczy ("serve yourself food") stores in all the neighborhoods, a kind of state-owned 7-11 for bread and basics. The town center has everything from a large garden supply store to an inchoate boutique. (The latter was one of the few signs of a youth culture. Another was graffiti in the tunnel under the railroad tracks, stating in English, "Skateboarding is not a crime.") A small bakery offers homemade ice cream at seven cents a scoop. The lines at the butcher shops were no longer than what Americans encounter at supermarkets and discount drug stores. They were much more civil.

If the iron gate at my host's driveway was a surprise, an even greater one was the house behind. Built last year, it was a modern chateau-style structure that would have stood proudly in Potomac, Virginia, or Lincoln, Massachusetts. From press accounts, I had braced myself for a week on a cot in a crowded kitchen. Yet here I was in a private guest room with pink curtains and a bowl of fruit and bottled water on the dresser. The kitchen was done in hand carpentry, with bright red utensils and matching TV. There were two more TVs downstairs, and a fourth in the daughter's room upstairs.

The explanation for this relative affluence was an

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old shed out back. From the street, it looked like a place for rusted oil drums, the Gasoline Alley that Americans expect in Poland. Yet at about 7:30 a.m., two or three workers appeared quietly at my host's gate and went to work in the shed. They were skilled machinists, and inside were machines with which they made bearings for use in Fiats manufactured in Czechoslovakia and East Germany. It probably was not an accident that my host built his house last year. That was when the communists finally fell from power. Suddenly, it was okay to show what you had. (Previously, people tended to spend on interiors.)

Strangely, communist Poland had come to replicate what John Kenneth Galbraith observed about American capitalism: private wealth amid public poverty. I learned that Milanowek is bustling with cottage businesses, enough to have a small chamber of commerce. My host, an animated man named Stanislaw Cwiklinski, was a prototypical small entrepreneur—constantly in motion, on the phone in his basement office at all hours of the day and night. He spoke no English, however, so for an explanation of how such private business took hold in a communist nation, I asked Andrzej Moes.

Moes lives in a modern one-story house he designed himself, set back from the road behind a cluster of trees. A couple of good-natured sheepdogs patrol the front drive. With his curly thatch of hair, California shirts, and running shoes, Moes could easily be a sixties refugee in Marin County. Instead, he is a textile entrepreneur, and he just opened a little workshop making running suits (which he also designed himself) with the Milanowek town shield on the chest.

Moes is unfailingly considerate and polite, to the point of embarrassment, given his schedule. He was recently elected chairman of the new Milanowek town council, which has the job of digging out after 45 years of communist cronyism and bad management. The previous night he was in Warsaw until very late, discussing a new banking system and questions of foreign investment. It's easy for American economists to preach a "cold turkey" plunge into capitalism. But the job of doing it is falling to people like Moes, and he's getting worn to a frazzle. His business is struggling as he spends almost all his time on town affairs. "There are too many things to be done at once," he says.

The Polish communists were not orthodox Marxists. Rather, they were a bastard form, a kind of mafia. The party clique ran everything. They got the best government jobs and the best private businesses and "joint ventures" as well. Others could start small businesses, but only in "difficult and twisting ways," Moes says. Getting a workshop and raw materials, for example, taxed ingenuity since there were no established channels. The effort also put one constantly at the mercy of the authorities, because everything was illegal: "There were limits on earning," Moe says, "even if you worked all day and all night. You had to hide part of the income and pay part [of your salaries] under the table. One was forced to cheat on the taxes. To hide turnover. To hide the real salaries of employees."

By looking the other way, the authorities turned private enterprise into a means of social control. Everybody knew about the cheating, Moes says, "even people from the Ministry of Finance. It was unofficially official. That was the aim of the communist rules—to put people in a position [where the government could say] 'I know but I don't draw the consequences as long as you are for us.'" Such memories lie behind one of the hottest political debates in Poland right now—how quickly to get rid of the old *nomenklatura*, the party elite now in a position to set themselves up in the newly privatizing industries.

Sweating equity

Beyond the appearance of fancy houses around Milanowek, the other big change has been the introduction of a program designed to plunge Poland into a free-market economy. Though any number of Western advisers have had a hand in this program, the one who has gotten the most attention is Jeffrey Sachs, the globe-trotting whiz kid from Harvard. Sachs preaches a kind of macro-economic machismo. Raise prices, hike interest rates, welcome bankruptcies and unemployment as evidence that the fat of the communist years is sweating off the body economic. "Western observers should not over-dramatize layoffs and bankruptcies," Sachs wrote in *The Economist* back in January. "Poland, like the rest of Eastern Europe, now has too little unemployment, not too much."

Cruel as it sounds, Sachs is right, up to a point. The communists did pad the payrolls shamelessly, so that state-owned enterprises employed many thousands of people they didn't need. But that raises a lot of questions, one of which is whether it's enough to sweat off the fat without taking care of the muscle. Sachs may be laying the groundwork to attract foreign investment. But what about the local entrepreneurs? Americans supposedly learned from *In Search of Excellence* and its progeny that a healthy economy begins with healthy firms. But people who know how to manage and produce—dirt-under-the-fingernails types—don't have much cachet in editorial boardrooms and on Nobel Prize committees. So it is the macro-whizzes who hold sway in the national and international debates.

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The results are evident in Poland. Having survived the communists, local entrepreneurs face a new problem in the cold-turkey measures urged by people like Sachs. A major point of concern in Milanowek, for example, is utility rates. These have gone up precipitously, 50 percent for commercial rates and 100 percent for residential. The old subsidized rates may have encouraged waste, but this kind of sudden increase undermines the cost structure of fragile local businesses. Greenhouses, a major form of private enterprise in Poland, will be hit especially hard. So will Richard Puch, who stone-washes dungarees in a small factory in Milanowek. The factory uses a lot of electricity for washing and drying, and Puch isn't sure he's going to make it through the winter heating season.

But people like Puch are not complaining. There's a remarkable lack of self-pity in this country; politics have not devolved into the kind of self-interest grabfest that Poles associate with the U.S. What these small businesses do want is practical advice on how to save energy. "Puch knows he needs to conserve, but no one locally knows how to help him," says Joel Gordes, a Connecticut state legislator and conservation consultant who was in Milanowek recently, meeting with local entrepreneurs. "There was a ring of desperation in their voices," he adds.

When people sit around the family dinner table instead of going to McDonald's, there is little for the GNP. Yet the family dinner table represents social cohesion Americans are groping to recover. In some ways, Poland is ahead for being behind.

It turns out that there are lots of things Puch could do. He could recapture moist heat from the hot washing water, for example, and run it through a heat exchanger to help heat the dryer. Efficient new motors would pay for themselves many times over, if he could raise the capital to buy them. "This is really simple stuff for us," Gordes says. "but nobody was there to tell him." Economists assume that given the correct price "signals," conservation will appear by spontaneous generation. But like most things it requires investment, know-how, tools that won't simply appear if nobody makes them available. What economists tout as "market-clearing" prices may clear the market of entrepreneurs.

Gordes was in Poland with Hank Ryan, who is trying to show on a small scale how Americans can provide such tools for Polish economic self-help. His idea is to help Milanowek manufacturers market their products in the U.S., with his share of the profit going back to the town in the form of conservation equipment. He brought Gordes and another local conservation specialist over there to do energy audits of local businesses and to brief local utility officials on peak-load pricing and similar strategies. They explained how the utility could save money (and cut pollution) by helping entrepreneurs like Puch finance new motors instead of adding generating capacity to the plant.

At a meeting of the local craft council, businessmen expressed enthusiasm for the idea. They pressed Ryan for videos explaining conservation techniques and began discussing the possibility of converting their own small factories—ones that turn out plastic toys, for example—to making weather stripping and insulation. If the U.S. government were to take such initiatives on a larger scale—through a kind of Conservation Peace Corps, perhaps—it could genuinely help free enterprise take root in Eastern Europe and win the lasting gratitude of entrepreneurs there. This would also help Eastern Europe reduce pollution, which is a major health problem and an obstacle to developing new industries. Unfortunately, the Reagan and Bush administrations have pooh-poohed conservation. The same waste-intensive energy policies that helped get us into the Middle East crisis are now preventing us from promoting free enterprise in the East Bloc.

"Dynasty" dementia

Andrzej Moes had every reason to become a *National Review* hero—the kind of asocial, acquisitive Ayn Rand character that the right-wing press imagines rising out of the ashes of communism. More than 70 years of communist thuggery hang heavily over his living room. On one wall is his grandmother, who fought the Bolsheviks in the Ukraine in 1917; their property was taken, her husband died. On another wall is his other grandfather, who lost his land to the Russians after World War II. From landed nobility they were reduced to wandering "nomads" until they settled in Milanowek in the late 1940s.

Yet today, Moes speaks quietly, without the distemper common among anticommunists in the U.S. Even though he is a businessman, he does not see the fall of communism solely in terms of investment opportunity and gain. The communists gave greed a bad

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name in Poland, he says. "They carried on business for their own sake. They didn't care about other people." Freedom, by contrast, means the freedom to do right, not just to make money. Moes has thrown himself into the task of rebuilding from the rubble. The priorities for the new Milanowek council include sewers and low-income housing. "This is a time when people who were against the communist system should do something for the country," he says.

Moes represents a side of Poland not much reported in the American press: anticommunist, pro-free market, but not obsessed with economics in the manner of American free marketeers. In this sense, Poland brings out the fault line in American right-wing thought between traditional family and community values on the one hand and the aggressive market culture that tends to undermine them on the other.

This is not to downplay the appeal of a market economy. A theme heard over and over, in 50 different ways, is how the Communists destroyed the connection between effort and reward. "It is a problem of mentality," says Jacek Gutowski, a geologist and member of the Milanowek council. "People expect that somebody will give them something. People expect that the town management will give them a flat, will give them work." Poles tend to idealize America on this point, as a land where rewards are dealt strictly on the basis of effort and worth. Their leaders worry that euphoric economists are creating the impression that the market is a magic carpet to prosperity and ease. The "Dynasty" reruns in the late afternoon perpetuate this belief. "'Dynasty' doesn't show how hard the guy has to work," says Gregg Lindenberg, manager of *Warsaw Gazetta*, the popular new Warsaw daily that is aligned with the anti-Walesa faction of Solidarity. "Probably he has been working 14 hours a day 6 days a week for 20 years. This part Poles don't understand. Americans probably understand it."

Americans also understand, of course, that the guy might have been living off oil royalties and not have done a stitch of work for the past 20 years. Regardless, many Poles are attracted to the idealized version. "I want to make a lot of money," Lindenberg told an interviewer recently. A former Solidarity activist, Lindenberg was imprisoned during martial law in the early eighties. As Solidarity evolved from a socially minded labor organization into a broad-based movement, free-market thinking became its intellectual edge.

The American left needs to grasp the exhilaration, the anti-establishment quality, that free-market thinking holds for people like Lindenberg. But the right needs to grasp that there is more to this than Milton Friedman. Much of the appeal of "the market" today is metaphoric. It represents a routing of the system in which the communists jiggered everything, in which hypocrisy pervaded the whole society. The truth about anything—history, the economy, one's own business—couldn't be spoken, was conducted off the books. Today, people speak of the old regulated prices for such things as food and utilities as "dishonest" rather than, as economists do, "inefficient."

Capitalist boobs

Poles often say they don't really know much about this thing called "the market" in concrete particulars. "We want capitalist relations here but we don't know what this is," one Milanowek resident told me. In particular, there is a good deal of naivete on the political dimensions of capitalism—on the role of advertisers in influencing the press, for example, and on the political power of corporations. (Poles have a sophisticated grasp of certain points of similarity between communism and capitalism, however. A current TV ad is pitching a conference center to Western businessmen; the ad ends with a well-endowed young lady, wearing nothing at all, slipping playfully into bed.)

Andrzej Stepnik of Milanowek illustrates the leavening effect of Polish culture on free-market views. Stepnik is a square-shouldered former merchant seaman who shipped out because, as he puts it, speaking of the communists, "I hated those guys." Like many talented Poles, he returned when Solidarity began to inspire hope for the future. Today he can sound like a supply-sider. "Money is in the streets," he says. "You only need a garden tool to rake it in."

Yet Stepnik also has a social awareness that does not always accompany such views in the U.S. He is an organic gardener, for example, whose wife makes natural pesticides by boiling certain plants. He talks about the need for zoning and land-use controls in town and warns that the "sharks" are starting to circle Poland for financial killings. And he is an environmentalist. "You won't find people so hungry for money that they will agree to any monkey business," he says of probable pressure on Poland to relax environmental laws to attract new business. Pollution is a problem that Poles associate with the communist bosses; and, in a strange twist, Ralph Nader and the Sierra Club, by housebreaking the American corporation somewhat, have done much to make capitalism attractive to the former East Bloc. "Foreign investment has much stricter ecological standards," Lindenberg says, explaining why Poland should court American business.

Foreign investment is another subject on which culture tempers free-market fundamentalism. Poles

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know they need money from outside, along with the business culture and marketing savvy that comes with it. But attach to the economist's neutered term "capital" the name of the actual places from which that investment is likely to come and complications arise. Germany is the prime example. The thought does not rest comfortably on the Polish mind that Germany might now be able to accomplish with marks what it failed to do with tanks. The thought is especially galling because at today's depressed prices, Poland could be bought for a song. "People in government must be very careful not to let foreign money overwhelm us and dominate us," Moes says. (Poles seem to prefer the Russians to the Germans as the lesser of two evils.)

Poles apart

Free-market ideology stresses the impersonal relationship of contracts. Life is a succession of deals, all to maximize personal benefit. In Poland, which is still largely rural, life tends towards the personal. Family is central; in communist times, it was where Poles could speak the truth. (Andrzej Moes attributes his political independence to having learned "right history" at home.) The rituals of food preparation and eating still revolve almost entirely around the home. People don't go out for a quick bite because there's no place to go. At the offices of *Warsaw Gazetta*, there are no styrofoam containers and sandwich wrappers on the desks; people get a full-fledged Polish dinner at a kitchen down the hall.

Poles who visit the U.S. sometimes feel adrift in a world in which people relate more to work and to things than to each other. Lila Szoszuk, a retired resident of Milanowek, spent three months with her brother in the Chicago area in 1983. "I think I can't live in America," she says. "They have not the time to arrange for me a trip. He work all the time. He was tired." (Mrs. Szoszuk was also put off by Americans' attachment to their cars. "When I go to walk, they think it strange. They go only by car.") Gregg Lindenberg noted the same thing. During two years in America, he says, "I never made a real American friend. I made people who are called, in America, 'friend.'"

This is not to understate the fascination with things American. Even a little town like Milanowek has a "Cafe Royal Bar," a cozy little nook with three tables and American cigarette posters on the wall. (Smoking seems to be Poland's national sport, and a potentially large leakage of foreign exchange to the coffers of R.J. Reynolds et al. RJR recently bought an East German cigarette maker.) In Warsaw, "California" *lodi* (ice cream) seems to have the cachet that Italian gelato has here. At the Sam Spozywczy store at a Warsaw apartment complex, the single biggest display was for Coca-Cola. (Though the biggest line, at noontime, was at the liquor counter.)

For all this, most Milanowek residents I talked to have reservations about life in the U.S. Yes, life is easier here. The phones work. There's enough toilet paper. (Although modest expectations bring their own rewards. "When I buy toilet paper I am happy," one woman said. "I have a good day.") People organize their own lives without the guiding hand of the state. But in terms of family, friendship, things not encompassed in the economic sphere, they don't want to lose what they have.

Adam Brostek, a journalist with the state television network, reflects this ambivalence. Brostek is starting an independent local paper in Milanowek, called *Nasza*, which means "Our." He and his partner are doing it Ben Franklin style, using a printing business for financial support. He helped the new town council defeat the communist slate by publishing candidate profiles for the respective voting districts. He has hopes for a local radio station, possibly even TV. Still, he worries about the cultural disruptions that an American-style economy might bring. "I have a [concern] that I will lose my lifestyle—being close with my friends and family and culture," he says. "It is in my blood."

Brostek lives with his wife and her parents in a small apartment building in Milanowek. Though the space isn't bad by New York standards—plumbing excepted—most American writers in their mid-thirties would find such an arrangement stifling. Brostek doesn't.

The old Marxist critique of capitalism warned of poverty, unemployment, social insecurity, and so forth. What worries Brostek, by contrast, is time. Poles should work harder but not the way Americans do. "We have plenty of time," he observes. "My home. My friends. My garden. Now I must work 16 hours a day?"

As we talked, we were watching Brostek's news show on a color TV set. Polish TV news is of surprisingly high quality, more literate and reflective than the American network version. The camera lingers on scenes without the jumpy, quick-cut techniques used in America to cater to short attention spans. (People told me that the reporting is generally free of government tilt.) Then a series of the new American-style ads appeared. One was for dungarees: the familiar motorcycles, black leather, and hips.

I couldn't help thinking that Poland may be in for a generation gap that makes the American sixties version seem paltry. Much as American parents of the fifties saw the world through the lens of the Depres-

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sion and World War II, Polish parents and grandparents today remember Hitler, Stalin, and the hardship of the past 45 years. Some think the collective memory is too strong for economic changes to dislodge. "In Poland the rich and the poor are no different," Lila Szoszuk says. "In the U.S. when you have a lot of money, you like only the people who have the same money. My father was very rich. After the war he was very, very poor. For me money is nothing."

"Our television is not for joy," Lila added. "It is for the mind—to know more about the world." The teenagers who soak up "Dynasty" in the afternoon may have different notions, however. One, the daughter of a fairly prosperous businessman, commented, "We don't have enough."

In the end I felt in Milanowek not the euphoric free-market utopianism of *The Wall Street Journal* editorial page but rather a kind of fatalism; the market, like democracy, isn't ideal, only the least bad. "You can expect that we know all these bad things. The intelligent people think about that, the Americanization of our culture," Jacek Gutowski says. "But all these things—Coca-Cola, McDonald's—are near to our feelings. They are a little piece of freedom."

They were once so for Americans too, of course, and there's no reason to expect Poles to be any different, especially considering the dark night they've come through. It seems a long, long way in Milanowek before McDonald's becomes an alternative to the family dinner table; before shopping centers undermine the easy sociability of Warszawska, the main shopping street; before power lawnmowers turn Saturday mornings into an aural nightmare; and before a youth culture, prompted by the marketing needs of business, drives a wedge between parents and their kids. When you don't even have sewers, how are you going to begin to address such prospects anyway?

Well, there may be a few things you can do. The town council is working on a zoning plan, for example, that could protect the traditional shopping district. More important than the plan are the values that lie beneath it. "People organized in your way are separate from one another," council chairman Moes says. "Here people are forced to lead a social life, to have contacts."

"We have poor people," he continues, "but still in Poland many people don't put together the problems of life and the problems of money. In the U.S. people are accustomed to relate all problems to the money problem. In Poland many still think in other ways."

But Moes, like others, is fatalistic. The market, he says, "will bring both sides, good and bad as well. It is impossible to block the bad influence. I hope the good influence will be the majority." □

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WHO'S WHO

No one here is cynical enough to suggest that **George Bush** sent all those troops to the Middle East just to get the S&L scandal and **Neil Bush**'s involvement in it off the front pages. Nevertheless, the S&L story has by and large been relegated to the back pages. Still, readers can find interesting fragments if they search thoroughly. For instance, in the Business section of *The Washington Post,* **Kathleen Day** reports on the vigor with which the government has pursued its investigation into why the Silverado closing was delayed until after the 1988 election. Three months after the investigation finally was announced, she finds that *none* of the potential witnesses who could shed light on the reasons for the delay has been contacted by government investigators. . . .

Three of the heavyweights among Washington professional political campaigners are involved in an embarrassing lawsuit. **Pat Caddell** is suing **David Doak** and **Bob Shrum**, charging them with withholding money owed him from work they did together to help reelect Senator **Alan Cranston** in 1986, a contribution to the Republic that at least some Washington insiders feel they might be unwise to call attention to. . . .

Senator **Ernest Hollings**, who has what some call an acid wit and others call a mean streak that long ago earned him a reputation as the Democratic **Bob Dole**, recently was asked by **Sam Donaldson**:

"Senator, you're from the great textile-producing state of South Carolina. Is it true you have a Korean tailor?"

"I got that suit," Hollings replied, "right down the street . . . where you got that wig, Sam." . . .

Stanley Meisler of the *Los Angeles Times*, who was traveling with **Dan Quayle** in Latin America during the crisis in the Gulf, got this insight into the centrality of the vice-president's role in the making of Middle Eastern policy. Did, for example, Quayle see an advance transcript of the president's initial address to the nation on the Middle East so that he could advise on the content? "While Quayle breakfasted with Peruvian business leaders in Lima," Meisler reports, "his aides tried to transcribe the text from Cable News Network on a hotel TV screen." . . .

Thomas Ludlow "Lud" Ashley is the current king of Washington lobbyists. Not only is he a former congressman with access to the House floor, he is a close friend of George Bush's from their Skull and Bones days at Yale. . . .

Chief of Staff **John Sununu**'s disdain for FDIC chief **William Seidman** could backfire. Sununu, who with Treasury Deputy Secretary **John Robson** decided not to renew Seidman's contract after next year, picked a decidedly conservative Federal Reserve officer, **William Taylor,** to replace their nemesis. But some conservatives (notably bankers) are concerned about Taylor's restrictive view of banking. Seidman, on the other hand, has encouraged Congress to relax regulations to make U.S. banks more competitive, particularly with European banks that engage freely in securities activities. . . .

Ede Holiday's honeymoon appears to be over. The former aide to Treasury Secretary **Nicholas Brady**, who replaced easy-going **David Bates** at the White House, got into a brawl with Energy Secretary **James Watkins** when the latter urged George Bush to begin selling oil from the Strategic Petroleum Reserve. Watkins won, but not before going over Holiday's head to National Security Advisor **Brent Scowcroft**. . . .

When Quayle made a campaign stop in Detroit in September he met a lot of Arab-Americans who expressed concern over Arab bashing in the United States stemming from the Iraqi conflict. Quayle (not Sununu, as widely reported) urged Bush to meet with Arab-American leaders at the White House, which Bush did. Attorney General **Dick Thornburgh**, however, sharply objected and had his lieutenants draft four pages of charges of Arab-American discrimination against Jews and other minorities. . . .

The "thousand points of light" initiative has become something of a joke at the White House, with **C. Gregg Petersmeyer** in the lead role. The Office of National Service has failed to offer any substantial national voluntarism effort. In fact, the office can't even count properly. Petersmeyer was ordered to name an American volunteer of the day so that the 1,000th day would arrive just before the 1992 elections. But the office began counting too soon and will have named more than 1,200 American points of light by November 1992. . . .

White House ghost writers were ordered to stop inserting jokes into Bush's 1990 campaign speeches about the cost of the luxurious new 747 Air Force One at a time when the president was trying to blame Democrats for the budget deadlock. They were told that First Canine **Millie** would make better fodder. . . .

Some Republicans are urging Labor Secretary **Elizabeth Dole**, a North Carolina native, to challenge Senator Terry Sanford in 1992. Dole has not decided whether she will. . . .

Other Republicans suspect that National Drug Control Policy Director **William Bennett** would be interested in becoming president of Boston University if his archrival **John Silber** wins the governor's race in Massachusetts. Bennett taught at B. U. . . .

In—*Commerce*: Assistant Secretary for Legislative and Governmental Affairs—**Craig R. Helsing**. *Treasury*: General Counsel—**Jeanne S. Archibald**. *Transportation*: Inspector General—**A. Mary Sterling**. *Agencies and Commissions*: CIA, Inspector General—**Frederick P. Hitz**. Food and Drug Administration, Commissioner—**David Kessler**. Interstate Commerce Commission, Member—**Gail C. McDonald**. National Institutes of Health, Director—**Bernadine Healy**.

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The Stupidity of Free-Market Chic . . .

. . . in the Stock Market

In broker arbitration, brokers decide if brokers broke the law. Guess who usually winds up broke?

by Carolyn Friday

Julia and Eugene McMahon never saw it coming. They were in a dark restaurant one evening with their "financial adviser" from Shearson/American Express, when she handed them a piece of paper to sign. "It's just red tape to open a brokerage account," the adviser told them. Even in the light of day, the McMahons wouldn't have read through the tiny print and understood the clause that was to win them a place in judicial history. They didn't know a lot of things that day. They didn't even guess that this nice woman who had befriended them in church would betray their trust and invest their retirement savings in dicey options trading, or that she would reap $200,000 in commissions as they lost $500,000.

Nor did they know that the document they signed that day in New York robbed them of the right to take their adviser to court. The sneaky little phrase, "the parties are waiving their right to seek remedies in court, including the right to a jury trial," is buried in a finely printed litany of boiler-plate lingo. As the McMahons' lawyer, Theodore Eppenstein, noted dryly in a congressional hearing, when five congressmen could not find the clause in his clients' agreement, "I'll give you a hint. It's not on the first page."

Brokers prefer to gloss over the issue of disputes and forced arbitration when clients are preparing to trust them with their money. "We are told by investors that time and time again brokers advise them that the agreement does not have to be gone over with a fine-tooth comb, that it is just like opening a bank account," says Eppenstein. How many customers would balk if they fully understood when they signed such agreements that their only recourse to any broker shenanigans—including fraud—is an arbitration panel run by the broker's peers?

Of course, when there are disputes, arbitration can be a worthy alternative to a long, drawn-out court trial, but not the way it is currently practiced in the brokerage business. Moreover, the Supreme Court, hoping to unclog the courts, has barred investors from seeking justice there. Although the Securities and Exchange Commission (SEC), which oversees brokerage firms, has recently proposed a number of reforms for securities arbitrations, these reforms do not go far enough. The deck is still stacked. Arbitration decisions are still mysterious and final. And for all its bravado, the SEC does not have the power to ensure that arbitrators are even following the law, and if they aren't, to undo their decisions. So much for investor protection.

Unfortunately, fraud is not a rarity in securities cases. All too often, the files of customers wiped out

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through options trading or margin accounts contain falsified documents. Forged signatures on margin agreements and wildly inflated net worth and income figures let brokers "churn and burn" in investments that are crazy for widows, orphans, and many other small investors. Take the case of a young widow from rural Tennessee. She was 41 with a 14-year-old daughter when her husband died. His life insurance policy paid $50,000. She turned over that money and the $10,000 equity in her house to Chris Hodges, a young Paine Webber broker in Tampa, Florida. The widow, a secretary, was impressed with Hodges's M.B.A. and certified financial planner title. Besides, her sister knew him.

At first Hodges played it safe, investing her money in municipal bonds. Then he switched her account into over-the-counter stocks and finally to one stock, Syntech. His next move was to margin her investment to the hilt by borrowing against the stock she held to buy more. It doesn't take a rocket scientist to figure out that no one of her modest means and in her precarious circumstances should invest in only one stock and never, ever, with borrowed money.

When the October 1987 crash came, the inevitable happened: the widow from Tennessee was wiped out, her life savings and her daughter's college education both gone. According to Stuart Goldberg, a Danbury, Connecticut lawyer who argued her case before an arbitration panel last July, the signature on the margin account was forged and the customer profile "X'd" out. The broker, says Goldberg, had originally bought the stock for his own account, and when it started dropping in price dumped it into his clients' accounts rather than take the hit himself. To dispose of it all, he had to margin the accounts. His supervisors at Paine Webber never said a word. "They were too busy playing with their seeing-eye dogs," says Goldberg, a former assistant U.S. attorney, SEC enforcement attorney, and New York Stock Exchange (NYSE) assistant director, who has won two other cases against Paine Webber for Hodges's misdeeds. "But the real fraud is that Paine Webber made her go through two years of arbitration after admitting they owed her the money."

As things stand, arbitration is an investor's only avenue for redress. The U.S. Supreme Court has ruled that, whether or not customers read or understand what they sign when opening a brokerage account, it is a binding contract. Furthermore, the customer agreements stipulate that any disputes will be resolved by arbitrators who are members of the securities industry and chosen by the stock exchanges. Talk about getting snookered!

Anyone not willing to play by those rules gets shut out of the market. "You cannot open an account without agreeing to arbitrate," said David Robbins, an attorney, arbitrator, and former New York special deputy attorney general. Rep. Edward J. Markey likens it to the following car transaction: "Imagine buying a car, having engine trouble, and then reading in your sales contract that you are forced to go to the Car Dealers Association of America to resolve your grievances. Imagine further your outrage when you discover you can't even own the car unless you agree to arbitrate your claim with the car dealers. . . . I know of no equivalent procedure where the forum itself is a self-regulatory organization of which one party to the dispute is a member."

That's the sorry plight of thousands of brokerage house victims since June 1987, when the Supreme Court voted 5-4 to deprive investors of the chance to air their charges publicly in a courtroom before a jury. Behind the closed doors of arbitration hearings, as the customer agreements explicitly state, "the arbitrators' award is generally more limited than and different from court proceedings."

As it turns out, the chance of recovering even some of the loss is less than one in four. In NYSE arbitrations, customers win 50 percent of the time, but only half of those who win recover even *some* of their money. And forget punitive damages and legal fees. Arbitrators' awards are all but impossible to appeal. The prospects for overturning an unfavorable award are equivalent to a "snowball's chance in hell," says Robbins.

The Supremes' bad record

When handing down the decision that locked brokerage clients out of the courts, Justice Sandra Day O'Connor, the author of the majority opinion, tried to reassure investors that they would get a fair shake in arbitration. Justice O'Connor acknowledged that mistrust of the arbitration process had underlined the law since the 1958 *Wilko* v. *Swan* decision, which held that an agreement to arbitrate a Securities Act claim could not be enforced. But that "is difficult to square with the assessment of arbitration that has prevailed since that time," she wrote in the landmark *McMahon* v. *Shearson* decision, which overturned the Wilko case. It appears that the Court's primary motivation for the decision was to reduce the caseload burdening the federal courts. Yet, in 1986—the last measurable year that investors had access to the courts—fewer than 2 percent of the approximately 250,000 civil cases filed in federal courts were securities-related.

Not everyone on the High Court felt so sanguine about abandoning the commitment "to protect investors from predatory behavior of securities industry

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personnel," as Justice Harry A. Blackmun wrote in his dissenting opinion. Concern for investor protection had been the cornerstone of the securities laws so carefully crafted in the early 1930s to restore confidence in the stock market. Four of the nine justices worried that even the perception of a rigged grievance process violated the goals of those laws. While there have been improvements in the arbitration system, Justice Blackmun wrote, "The uniform opposition of investors to compelled arbitration and the overwhelming support of the securities industry for the process suggest that there must be *some* truth to the investors' belief that the securities industry has an advantage in a forum under its own control."

How, then, did the Court justify its dramatic about-face in *McMahon*? It appears that the majority justices were swayed by a "friend of the court" brief filed by the Reagan-appointed SEC. That agency had done its own flip. Only four years earlier, the SEC had instituted rules requiring brokerage firms to clearly disclose to their customers that, despite any predispute arbitration language in their agreements, investors had the right to take their brokers to court for any violations of the federal securities laws, such as fraud. But in 1987, over strenuous staff objections, the SEC suddenly reneged on its duty to see that investors are protected. Instead, the commission sided with the brokerage industry, arguing that arbitration was the best means for settling differences. It also assured the Court that it was fully in charge of overseeing the exchanges and could "insure" the fairness of industry-subsidized arbitrations.

Fairness is certainly not what M. K. "Pete" Peterson is finding in his ongoing two-year arbitration hearing. "I don't think my panel could fairly arbitrate a game of checkers," says Peterson. Peterson claims his broker at Rauscher Pierce Refsnes, Inc. in Dallas ignored an explicit order from him three days in a row in September 1987 to cover certain puts (options to sell stock at a fixed price within a specified time) on his Sun Co. stock. When Peterson checked back several weeks later and discovered his order had not been carried out, he complained to the branch manager. He was still holding the options when the market crashed, causing him to lose $800,000.

But his treatment by Rauscher Pierce pales in comparison to his treatment in his subsequent New York Stock Exchange arbitration. "It's like a rape case. The rape victim is on trial and the rapist goes free," says Peterson.

On the first day, four of the five arbitrators, before even hearing the facts of the case, called Peterson a "speculator." The chairman told Peterson, "I don't like your personality. But I'm not going to use that to judge you." He interrupted Peterson's expert witness, saying, "I don't think we want to learn law. I am an engineer. I want to stay an engineer." Reviewing the testimony of Peterson's hearing, Robbins, a great advocate of arbitration, stated that such belligerence is out of line. He also said that the majority of the arbitrators had acted contrary to the code of the Arbitrator's Manual. "What troubles me most about your arbitration," wrote Robbins, "is the arbitrators' apparent prejudgment of an important issue (and voicing that prejudgment on the record) and the manner in which the Chair is conducting the proceeding."

Despite such clear evidence of bias, the NYSE has adopted a laissez-faire stance in the Peterson case that is symptomatic of all that's wrong with securities arbitration. When two of the arbitrators voluntarily dropped out, the NYSE offered replacements. One, Peterson rejected outright. But the day of his next scheduled hearing, there was only a four-member panel and Peterson refused to continue. The NYSE said it would find a new arbitrator for the next day.

When Peterson arrived at his hearing, he found the same arbitrator he had just rejected. "Obviously, they are trying to wear me out. They're hoping I'll die or go crazy," says the 71-year-old Peterson. But he vows, "I'm going to fight this travesty to the bitter end if it kills me. Not just for myself but for all those poor retired people who have no one to speak for them."

Home court advantage

Since *McMahon,* investor rights advocates have focused on challenging the way investors are coerced into arbitration agreements and on attempting to knock out the bias inherent in the industry-subsidized system. "Arbitration as a concept is phenomenal. But the way it is being administered now certainly has the earmarkings that it is biased," says Harvey Bell, an arbitrator and former Arkansas state securities commissioner. Attorneys Robbins and Goldberg maintain that the pool of arbitrators used by the NYSE is in large part to blame for the pro-industry slant. "They can play with the best rules in the world, but if the umpires are crooked, it doesn't matter," says Goldberg.

Lawyers for brokerage houses say that industry representatives who understand the products and practices of Wall Street are essential to the arbitration process. But that is only half the story. There are plenty of educated people outside the brokerage industry who understand puts and calls. What the NYSE really is doing is slipping industry arbitrators into the mix as "public" representatives. Panels are composed of three or five arbitrators, with one or two members of the industry, respectively. But real life is

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different. Eppenstein recently filed a case before the NYSE and all three arbitrators were pro-industry, although two were designated "public" arbitrators. Familiar with the NYSE's arbitration practices, Eppenstein discovered that two had sat on nine arbitration panels in the past year and each had ruled in favor of the investor only once. The third, who was in the nonindustry category, was called a "financial consultant" and revealed that he had a relationship with Philadelphia Capital Advisors. The NYSE maintains that since the third arbitrator derived less than 20 percent of his income from his consulting activities, he does not qualify as an industry representative.

Picking the right arbitrators is crucial to the outcome of the case. Brokers know this well. They have been keeping their own tallies of how arbitrators vote for years. But because decisions weren't released by the exchanges until last year, it was extremely difficult for plaintiffs' attorneys to obtain the same information. Many not experienced with arbitration still don't know the ropes.

Renard Chrobak, a disabled worker from Arkansas, found himself in front of blatantly biased arbitrators in his hearing against a broker from Edward D. Jones & Co. Chrobak's broker had rolled the dice and lost his $35,000 workman's compensation from a factory accident that rendered him unemployable. In typical fashion, the three-member panel was composed of one industry representative and two public arbitrators.

One of the "public" arbitrators was Harvey Bell, the former Arkansas state securities commissioner, who believes he was put on the list of arbitrators in the mistaken belief that he was a former broker since he had once taken the broker-dealer exam. The other was the chairman of the panel, an attorney, who failed to disclose that 90 percent of his income, according to Bell, came from work he performed for brokerages. In discussions with Bell, the chairman "acknowledged that Mr. Chrobak would probably recover in a jury trial, but he was going to vote no award." Bell was so shocked by the overt prejudice that he filed a rare, and controversial, dissenting opinion. Chrobak, he concluded, did not receive a fair and impartial hearing.

Fixing the brokers

A number of relatively easy changes could render arbitration a more level playing field. Including on each panel a former judge or an attorney knowledgeable about the rules of evidence would ensure orderly proceedings. Also needed are procedures for making brokers deliver all relevant documents in their files under pain of forfeiting the judgment. But the brokerage community resists change. After all, there's a lot at stake. That's why the industry continues to pour out the bucks to finance a protective lobbying onslaught.

Critical for the brokerage business are the bottom-line costs—legal, PR, and of course, financial—of highly public court battles. The simpler arbitration process keeps litigation costs at a fraction of what it would take to fight a lawsuit. And in a forum they control, brokers expect to fare better than they would at the hands of a jury or an independent forum such as the American Arbitration Association (AAA). The brokerage industry is fighting the inclusion of the AAA as a possible arbitration choice for investors. "It isn't arbitration they want. It's pro-[brokerage] industry decisions," says Goldberg.

The lobby appears stronger then ever. For instance, last year the Massachusetts government wrote rules forbidding brokers from refusing to do business with clients who would not agree to arbitrate. Sixteen other states were ready to follow that lead. The Securities Industry Association argued successfully that Massachusetts's regulations conflicted with *McMahon*. And once again, the Supreme Court flashed its pro-arbitration bias, refusing to rule on the case and effectively freezing the states' securities commissioners out of an important role in consumer protection. Stunned by the court's anti-investor attitude, Barry Guthary, Massachusetts's state securities chief, says, "The tenacity of the industry in this issue is overwhelming."

Reps. Markey, John Dingell, and Rick Boucher attempted to rectify this situation with a bill in the last Congress but were forestalled by then-SEC chairman David Ruder, who called for a study of the issue due the day after Congress adjourned. The lawmakers say they intend to reintroduce the issue. Meanwhile, Dingell, chairman of the powerful Telecommunications and Finance Committee, which oversees the SEC, has asked the General Accounting Office to prepare a report on how arbitration is conducted.

Perhaps most suspect is the SEC. In 1985, the SEC declared a hands-off policy on arbitration. In response to a query by Dingell to look into a bizarre arbitration ruling, the SEC wrote: "The Commission has no authority to review a specific arbitration to assure either compliance with the procedural or accurate interpretations of underlying federal securities law or other claims by the arbitrators." In 1987 the SEC assured the Supreme Court in the *McMahon* case that the arbitration process was "fair." Six months after that, the SEC announced a flurry of detailed recommendations to improve the arbitration process. Only some of these were adopted, others were watered down, and none have any teeth. The entire exercise is a testament to the kind of window-

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dressing reforms that characterized Reagan's Washington. They fell short of helping the little investor, other than making him feel he would be better off. But they succeeded in what was perhaps the true intent: protecting Wall Street's wealth.

A key area targeted by the SEC was the arbitrator. "The absence of clear guidelines for qualifying public arbitrators . . . and the inclusion in the pool of public arbitrators of persons with clear affiliations with the securities industry is a source of great concern," said Richard Ketchum, the SEC's Director of Market Regulation.

In the changes finally adopted a year ago by the National Association of Securities Dealers, the New York, American, and other stock exchanges, the pool of public arbitrators was purged of any member, spouse, lawyer, or accountant who worked on Wall Street. However, a former broker need have quit the business only three years earlier (five at the NYSE) in order to qualify as a public arbitrator. Thus, an inexperienced investor could easily end up with a panel consisting of one arbitrator who is currently working in the securities business and two others who retired from it in 1987.

Despite the new screening and the availability of slightly more detailed biographies of arbitrators, the investor is still at a disadvantage. The NYSE permits an investor to arbitrarily reject only one of the judges assigned to any panel. Any other challenges must be made on the grounds of conflict of interest, and even then the NYSE has been known to refuse to grant them.

A more subtle problem, say attorneys, is the growing cadre of professional arbitrators. Some arbitrators in the pool essentially make their living off the $250 per day arbitration fee. "If you're an arbitrator and you do it for a living, who do you want to get a reputation for supporting? The little guy who'll come before you once in your lifetime or Shearson?" asks Neal Brown, a Boston attorney. "The plaintiff is going to get a list of arbitrators and he doesn't know them from Adam. You can bet your life that Shearson and the others know every person on that list." According to Robbins, to get that same information, a plaintiff's attorney preparing for an NYSE arbitration would waste dozens of billable hours sifting through every decision made by every arbitrator, kept, unindexed, only at the exchange.

Many of the exchanges' lists of arbitrators are in dire need of an infusion of new blood. An energetic recruitment campaign with thorough training for all prospective arbitrators would substantially broaden the pool and produce arbitrators as informed as industry representatives but free of their allegiances. It is painfully obvious from Peterson's case that the NYSE does not have a big enough pool of untainted arbitrators.

Much of the bad reputation of securities arbitration could be repaired by simply allowing all investors the option to go to the independent AAA—a proposal actually made by the SEC last spring but still not enacted. Biographies and backgrounds are more carefully screened by the AAA, say lawyers. More important, challenges to the slate of arbitrators designated for any case at the AAA are unlimited. In a recent arbitration case, for example, Theodore Eppenstein found only two arbitrators from a list of 30 that he considered acceptable. It took five months, but as Eppenstein says, "The ability to select a panel of arbitrators that you're happy with is well worth the wait."

At present, though, not everyone with a problem can take it before the AAA. Only customers whose agreements specifically include the AAA are guaranteed entry. Although Eppenstein pioneered a loophole in the contracts of customers at American Stock Exchange brokerages that permits them to go before the AAA's arbitration panels, it is being challenged in several courts.

Not surprisingly, the brokerage industry opposes the AAA as a choice for its customers. Investors seem to fare better at the AAA, winning about 60 percent of the time. Dean Witter spokesman Jim Flynn says, "We don't find that it's administered well." But then, Dean Witter recently lost an embarrassing case before the AAA in Florida.

The Securities Industry Association (SIA) pays lip service to the notion of including the AAA in customer agreements. Says William Fitzpatrick, general counsel of the SIA, "It's a question of perception. We get hammered by the press and people in government that we're not affording a choice." Yet the SIA's true attitude is probably more accurately revealed in a letter to the SEC last June, in which it argued against offering the AAA option to its customers. "The industry wants to be able to have better control of the outcome of arbitration. It's as simple as that," said Robert Dyer, an attorney in Florida. In a rare defeat for the brokerage industry, the Trial Lawyers Association in Florida pushed through a new law effective in October making it mandatory for brokerage houses in that state to offer customers the option of an independent arbitration.

Writing wrongs

A key reform on which the SEC just plain buckled was the issue of providing wronged investors with the kind of written opinion they could expect from a court of law. Not even the AAA issues written opin-

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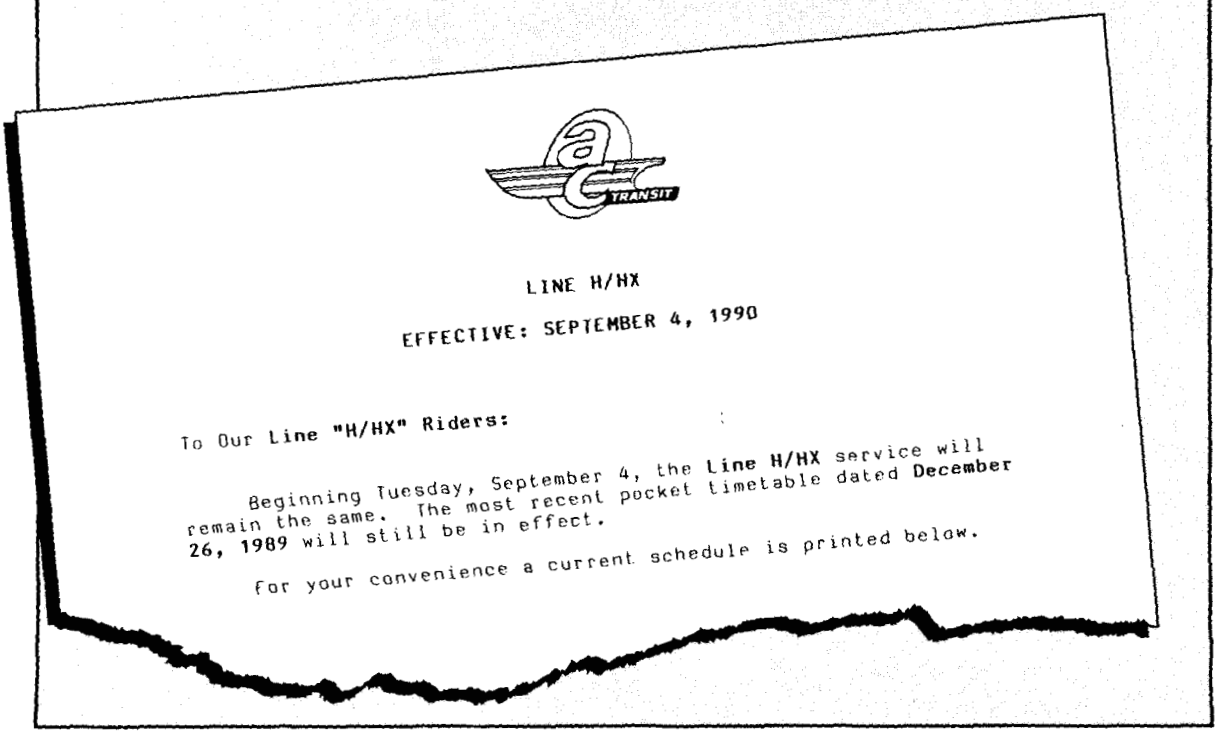
ions. "I think the fundamental problem [with arbitration] in terms of perception is that people don't know the basis for the decision," says Guthary, the Massachusetts state securities chief. In lieu of written opinions the SEC suggested that arbitration boards make available a summary of the legal issues, the outcome, and the amount of any awards. Still unanswered is how the arbitrators reach their decisions.

Such explanations seem fundamental in a system that allows virtually no grounds for appeal and in which an NYSE arbitrator's training in the law consists of an evening seminar and a 44-page manual. "Arbitrators can make mistakes on the law. Even if they're using the wrong law, it can't be appealed," says Brown. Investors at the NYSE can obtain an opinion, *if* they request it in advance—another example of rigging the system in favor of the industry: "People usually don't request an opinion until after the case," says Edward W. Morris Jr., NYSE arbitration director. A request at that stage is easily turned down. Of course, a better solution would be to expand the right to appeal.

A quick look at the statistics shows the SEC's improvements haven't had much of an impact. According to Richard Ryder, publisher of the *Securities Arbitration Commentator* newsletter, arbitrations award investors about 15 percent of the total claims, just as before the new rules. "They don't seem to have shifted the scale at all, which may tell us the decision process hasn't changed in the least," says Ryder. One hopeful sign is that arbitrators are beginning to award punitive damages in the most egregious cases. Ryder says there were 11 such awards in the first three months of 1990, compared to 10 for all of last year.

Still, it is doubtful that the flaws in securities arbitration will be eliminated as long as the brokers are in charge. If the American Stock Exchange and the NYSE were fired from the arbitration business and independent organizations such as the AAA put exclusively in charge, arbitration could become what the securities industry advertises: fair, speedy, and far less costly than court trials. Investors would gladly opt for it in all but the largest cases. But given the octopus grip the securities industry has on its regulatory bodies, only Congress can make it happen. Congress must sum up the courage to restore the investor's bill of rights—to allow him to sue in court or select an arbitration forum of his choice and to have a means of appeal. Only then will small investors return confidently to the capital markets. □

MEMO OF THE MONTH



LINE H/HX

EFFECTIVE: SEPTEMBER 4, 1990

To Our Line "H/HX" Riders:

Beginning Tuesday, September 4, the Line H/HX service will remain the same. The most recent pocket timetable dated December 26, 1989 will still be in effect.

For your convenience a current schedule is printed below.

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The Stupidity of Free-Market Chic . . .

. . . in Real Estate

You have a lot to thank your real estate agent for: He ripped you off when you bought your house, and because of him, you could lose it tomorrow

by Elizabeth Lesly

Ralph Colburn has been selling a certain commodity in Idaho for decades. Until recently, he had a bustling office in Boise. Like any sharp businessman, he looked around for a piece of the market overlooked by his competitors. Seizing upon the opportunity he saw, he advertised that something new had come to Ada County. Ralph hit upon something the market was eager for—something that saved his customers money. Business was good. But Ralph's competitors weren't so happy. They pulled him in, tried him before their private tribunal, and drove him out of business. That left Ralph bankrupt at age 73.

Ralph was selling (pick one):

a) new cars
b) stocks and bonds
c) potatoes
d) houses

Unfortunately for hapless Ralph, the answer is d)—he was selling residential real estate, an industry controlled at almost every level by the National Association of Realtors (NAR) and its thousands of local boards. So great is the control that the NAR tries to exert that it treats the term for its members as a registered trademark requiring capitalization: Realtor. Part of that control is a stipulation in the NAR code of ethics that in essence prohibits Realtors from competing with each other, a condition that by definition makes the NAR a cartel.

In 1988, after nearly a decade as a Realtor, Ralph broke from the Realtors' mandated practices and started advertising as a "buyer's broker." Almost all Realtors represent the seller—even those who drive the house-hunting buyer around to look for a home. The agent who helps the buyer find a home then splits a commission—usually 6 or 7 percent of the selling price—with the agent who worked with the seller from the beginning and listed the house for sale.

When both agents in the transaction represent the seller, both are legally bound to do everything in their power to see that the seller gets the highest price. Splitting the commission obviously leads to this result as well. But Ralph didn't want to represent the seller—he thought it unfair, misleading, and probably illegal.

"There are more than 700 Realtors in Ada County," Ralph's ad read, with a photo. "Here's part of them—all nice folks. All dedicated and obligated to sellers! How many are dedicated to the best interest of the buyer? Ralph Colburn."

Pretty tame stuff, right? But the "nice folks" in Boise didn't much like Ralph telling customers that most Realtors represent the seller. A 1983 Federal Trade Commission (FTC) study found that nearly 75 percent of buyers and sellers didn't understand that

Elizabeth Lesly is a business writer for the Albany, New York Times Union.

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the broker who helped the buyer find a home wasn't representing the buyer. So in millions of deals, year after year, buyers have been confiding financial information to the broker—even disclosing their highest bidding price—not knowing that the broker is obligated by law to relay that intention to the seller and make sure the seller gets the highest price possible.

Monopoly money

The local Realtor board "hearing" that hurled Ralph into bankruptcy court faulted him for seeking "unfair advantage over other Realtors" and failing to "avoid controversies with other Realtors." The Boise Board of Realtors also found that Ralph broke the rule that read, "The Realtor shall not publicly disparage the business practice of a competitor nor volunteer an opinion of a competitor's transaction."

Imagine the glee of big automotive manufacturers, large Wall Street firms, and potato barons if they were told they could quash the pesky competitive threats of upstarts, unfettered by any significant market force or government intervention.

But the National Association of Realtors is unique. The linchpin holding the whole organization together is the network of thousands of Realtor-run multiple listing services (MLSs), which catalog properties for sale.

"If you're going to be in residential housing sales, you have to be a member of some kind of MLS," explains Colburn in his Idaho twang. Membership in the NAR is compulsory if a broker wants access to an MLS. That rule has made the NAR the largest trade association in the world, with about 820,000 members.

The NAR's control over the country's MLSs—which handle about 80 percent of all home sales—has been picked at halfheartedly by various agencies for years, but with little real change, and with no lessening of the Realtors' stranglehold on the industry.

During the Carter administration, Paul Roark, now staff attorney with the FTC's regional office in Los Angeles, led a team of FTC investigators that began looking into the Realtors' influence over the real estate industry. When the voluminous study was finished, the Reagan administration stalled its release for years, then failed to take any real action on the study's findings. "The primary issue for Realtors is the maintenance and control of the MLSs," Roark explains.

To get access to an MLS a broker must join and pay dues to the NAR, its state association, and a local Realtor board. The NAR's share of those dues totaled $57.8 million in 1989 alone. The NAR's total revenues that year were $106.8 million, according to Dale Stinton, the NAR's comptroller.

Those revenue figures don't include what the Realtors' aggressive political action committee, RPAC, brings in every year. Between January 1, 1989, and March 31, 1990, RPAC reported receipts of $3.2 million; for the 1987-1988 election cycle, RPAC raised $6.2 million.

And what does all that money buy? In just the past couple years, the Realtors have:

➤Ambushed an Office of Management and Budget (OMB) option that could have netted $604 million a year for the Treasury.

➤Declared war on any politician who dares support an interpretation of the Real Estate Settlement Procedures Act (RESPA) that would prohibit Realtors from collecting mortgage-origination fees from buyers. Detractors say that the Realtors' handling loan originations add $2 billion to $7 billion annually to the costs of financing homes.

➤Helped four federal agencies come to the conclusion that residential properties selling for less than $100,000 need no appraisal and that certified appraisers aren't required for properties selling for less than $1 million when the home is financed by a federally insured lender. Many Realtors have a sideline appraising business, but do not meet the educational standards of any professional appraisal group.

➤Terrorized a member of the House Ways and Means Committee who obliquely suggested a cap on the deductibility of mortgage interest. The NAR was so effective that the congressman will not even discuss the episode. Mortgage-interest deductibility cost the Treasury $34.2 billion in 1989.

Twisted ARMs

The NAR is so successful at the federal level because it couples its political contributions with hard-core lobbying from the moment it gets wind of any initiative it doesn't like.

That was the case with the OMB's consideration this spring of a new transfer tax on real estate sales. The 0.1 percent tax on the $604 billion in single-family home sales last year would have been used to protect environmentally threatened areas. The NAR, working in concert with the National Association of Home Builders and the Mortgage Bankers Association (MBA), contacted policymakers at the White House and the Treasury, and the initiative was dropped in a matter of days, according to Sharon Canavan, deputy legislative counsel with the MBA.

The NAR goes to great lengths to train its hundreds of thousands of members in "grass-roots" political persuasion techniques that the Realtors can apply to representatives from their home states. Last April, at its midyear conference in Washington, the

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NAR told its members that the MBA (usually the NAR's political ally) was waging a "war" against the Realtors' "right" to charge fees for helping a buyer find a mortgage. The NAR called on all Realtors to lobby against any revisions to the 1974 RESPA that would ban Realtors from charging fees for computer-originated mortgages, a relatively new but lucrative development in the industry.

Part of the program was a skit by the "Realtor Prime Time Players," intended to show Realtors how to influence their elected officials. The skit was distributed to Realtors on cassette tapes marked "Restricted."

The scene: Senator Batsen D. Belfry from the State of Confusion is visited by Roger and Roberta Realtor from the state's Realtor association. Also present is Belfry's legislative aide, Snidely Scribe.

First, Belfry, venal and money-grubbing, thanks the Realtors for their "gift" to his campaign. Then Roger Realtor quotes a recent Belfry speech in which the senator swore to introduce a bill that would prohibit real estate brokers from charging "exorbitant fees for helping home-buyers in getting a mortgage."

"I'm afraid you've been victimized by the use of a buzzword," Roger Realtor tells Belfry. Roberta Realtor then asks Belfry if he doesn't think people should be paid for their time.

"I think it only right to charge people for time," Belfry responds in a Southern drawl. "I couldn't very well make a living if I couldn't charge people for talking to them. There's no such thing as a free lunch. Unless of course there's some honorarium attached. Folks want to get paid once they make the deal. Anybody who makes a deal with me better be able to pay. Don't worry about that bill, folks. I'll see that it doesn't get past my committee. Now, about that fundraiser coming up. . . ."

About 75 percent of all buyers ask the real estate broker for help in finding financing, according to the NAR. One way brokers find financing is through computer loan origination, which will probably become standard in the next decade. RESPA prohibits real estate brokers from taking fees for referring buyers to lenders, but the question is whether computer loan origination is a "referral" within the meaning of RESPA.

Today about 100,000 Realtors are pulling in hefty fees for computerized mortgage-origination services, and the MBA and some consumer advocates are warning that this violates RESPA. In September, the Department of Housing and Urban Development (HUD) disagreed. In testimony before the House Banking Subcommittee on Housing and Community Development, HUD declared that it would interpret RESPA as allowing real estate brokers to take fees for originating mortgages if they don't restrict the mortgages offered to just one lender.

The most prominent of the loan origination systems is Citicorp's MortgagePower. Citicorp charges users $2,500 a year for access to the computerized listings of the mortgages it offers, and the brokers charge buyers anywhere from $200 to a full percentage point of the loan's value to file an application. The NAR says that a Realtor's innate concern for a buyer's well-being will deter him from steering the borrower to Citicorp (and recouping his $2,500 investment) unless it's also a good deal for the buyer. Citicorp was so wedded to its mortgage strategy that it quit its major trade association, the MBA, in September because the MBA objected to real estate brokers' originating mortgages.

You've changed jobs, hauled everything you own in the world 3,000 miles, and settled into your home. And somewhere out there, the guy who used to own your new house decides he wants it back. He can dissolve the sale if he feels like it.

The MBA took a survey of MortgagePower loans in the spring of 1989, and claims that loans originated by real estate brokers have interest rates 1/8 to 3/8 of a point higher than otherwise available, which would mean home-buyers are spending $2 billion to $7 billion more a year than necessary on interest payments.

Since MortgagePower was rolled out nationally in 1986, Citicorp has increased its market share from 2.9 percent in 1985 to become the industry leader at 4.1 percent in 1989, when it lent $12.3 billion in mortgages.

HUD General Counsel Francis A. Keating told the banking subcommittee that HUD's inaction on the issue in the past several years had created confusion in both the real estate and mortgage industries, and that Citicorp had been allowed to establish a "monopoly." HUD gave Citicorp two years to open up its system to other lenders.

Left unaddressed were the problems inherent in a real estate broker's arranging for complex mortgage financing when his primary motive is to close a sale and move on. Keating said HUD envisioned the na-

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tion's mortgage-origination system resembling the airline-ticketing systems that list the fares and routes of most major carriers. But what with points, balloon payments, and other mortgage twists and turns, finding a "good" loan isn't quite as easy as booking a customer through to Duluth.

A. Love's labor lost

Mortgage origination isn't the only lucrative sideline some Realtors try to milk in a single deal. For instance, brokers are allowed to refer buyers to title insurance companies in which the broker has an ownership interest. Another example is the NAR's position on requiring appraisals of residential property. About 100,000 NAR members do appraisals on the side.

Rep. Doug Barnard was convinced years ago that faulty and fraudulent appraisals lay at the root of the S&L debacle and many bank failures. He spearheaded a part of the S&L bailout bill in 1989 that required certified appraisals for homes selling for more than a certain amount. Barnard favored a $15,000 threshold.

By the time the Federal Reserve Bank, one of the five federal agencies charged with overseeing the country's financial institutions, issued regulations in June, that $15,000 threshold had been changed at the urging of the banking industry and the NAR.

The new limit: $100,000. Homes selling for less than $100,000 would need no appraisal to qualify for loans from federally regulated lenders. In 1989, 54 percent of all homes on the market sold for less than $100,000. For houses selling in the $100,000 to $1 million range, the law stipulated that the appraisal could be performed by a licensed appraiser, rather than a more qualified, more educated, and more experienced certified appraiser. To be certified, an appraiser must pass stringent educational and work-experience requirements imposed by appraisers' professional organizations.

The NAR spearheaded the move to the $100,000 threshold, arguing that otherwise there would be an appraiser shortage that would force consumers to pay more for appraisal services. But A. Scruggs Love says he knows better. Love is president of the American Institute of Real Estate Appraisers, which fell under the cloak of the NAR until last June.

"The NAR wants their brokers and salesmen to be able to do an occasional appraisal," said Love from his office in San Antonio. "We agree, but think they should have the education to meet the minimum requirements to do a competent job." Love charges that many of these occasional appraisers do a "windshield" appraisal—a simple drive-by of a house, with no real research or inspection.

For the past year, as the NAR was lobbying hard—first against any change in appraisal standards, then for raising the limit to $100,000—the 22,000 certified appraisers who were members of the NAR had to sit by in horrified silence. That's because in 1988 the NAR created a rule that forbade its 10 affiliated organizations from communicating with any government body without the NAR's prior approval. Not surprisingly, the NAR never gave Love's group the go-ahead for anything. Love's frustration at being gagged for two years by the NAR was evident months after the appraisers voted themselves out of the organization, breaking an affiliation that dated back to 1932.

Leaving the NAR over this issue was no easy decision for the appraisers, because those who left the NAR cannot have access to the MLSs. "It's extremely difficult to do single-family residential [appraisal] work if you don't have access to MLS," Love said. "I personally don't believe the NAR has the right to insist [someone must] be a Realtor before joining an MLS."

Barnard, the congressman who advocated the $15,000 threshold, said that from the legislation's passing in August 1989 until June 1990, he had no indication from the Federal Reserve or other regulators that his reforms would be thwarted. "I was shocked," Barnard said. "They were trying to dilute the legislation we had been working on so long. Appraisals have been known as one of the main reasons for the failures we've had as far as savings and loans are concerned." Faulty or fraudulent residential appraisals are officially blamed for about 10 percent of the S&L mess.

Legislators keep in mind the kind of pressure the Realtors can apply at almost a moment's notice. Take, for instance, the case of Long Island Rep. Thomas J. Downey, who had a Kafka-esque run-in with the Realtors in 1988. Despite repeated requests for an interview, Downey will not discuss the episode, so the following synopsis is drawn from a 1989 *Newsday* story by Stephanie Saul.

In an April 1988 speech, Downey, a member of the House Ways and Means Committee, mentioned that a cap on mortgage-interest deductibility might be one of the many ways Congress could generate revenue. Mortgage-interest deductibility cost the Treasury $34.2 billion in 1989.

Come June, 23 organizations, including Citibank and the American Bankers Association and led by the NAR, demanded a meeting with Downey. Downey, who never said he was going to actually propose a cap, discussed the possibility of creating a cap of $50,000, the approximate annual interest on a $500,000 mortgage.

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But the NAR and the Long Island Board of Realtors still weren't satisfied. A member of Downey's staff told *Newsday* that the Realtors threatened to withhold RPAC contributions to Downey's campaign. Downey received $8,000 from RPAC during the 1987-1988 election cycle, according to the Federal Election Commission.

At a subsequent meeting of the 23 groups, the NAR pledged to alert its affiliated boards to the danger posed by Downey. An entirely new 34,000-member lobbying group, Alliance of America's Homeowners, was formed specifically to battle Downey's never-proposed interest-deductibility cap. A widely distributed report by the National Association of Home Builders put Downey on an "alert" list of politicians who had designs on mortgage-interest deductibility.

By August, Downey met with the Long Island Realtor association to recant and promised to leave mortgage-interest deductibility untouched. Then Downey got two $3,000 contributions from RPAC. Finally, Downey wrote an article for the *Long Island Realtor*, pledging vigilance in protecting the current level of mortgage-interest deductibility, which is $100,000.

Deadly double agents

But nothing the NAR has managed to pull off in Washington can compare with the legal legerdemain it uses to control access to MLSs. In 1989 alone, 3.44 million homes changed hands through MLSs. And almost all of those deals are rescindable.

Just think about it. You've changed jobs, taken the kids out of school, hauled everything you own in the world 3,000 miles, and settled into your new home. And somewhere out there, the guy who used to own your new house decides he wants it back. He can dissolve the sale if he feels like it. Now multiply that disastrous scenario a couple million times, and the perils of the nation's current real estate industry become quite vivid.

The problem lies in something called "subagency." All Realtor MLSs outside of California require that the Realtor helping the buyer look for a house be a subagent. A subagent is required by law to represent his agent and his principal—in this case, the seller's Realtor and the seller. This means that all the Realtors who belong to the MLS represent the seller in any transaction, either as agent or as subagent. These sales are rescindable if the subagent left any impression in the buyer's mind that somehow his interests were being represented. And remember, the FTC found in 1983 that nearly 75 percent of all buyers and sellers believed that the broker who helped the buyer actually represented the buyer—and they were surveyed by the FTC after their deals closed. Ralph, the renegade Realtor from Boise, got into trouble because he refused to act as a subagent.

Paul Roark, the FTC attorney, said that most subagents in truth act as a quasi-agent for the buyer, because such a relationship is natural, though prohibited by the NAR. This reality makes the subagent something illegal: a dual agent. Dual agency is illegal in every state if not everybody involved in the transaction knows about the dual agency and consents to it.

"Subagency causes undisclosed dual agencies," Roark says. "It's almost always undisclosed and [that's] grounds for rescission in all states, without showing of injury."

Forcing all Realtors to be subagents "is a biased supposition of the NAR," Roark continues. "The subagency is a ridiculous position that serves the purpose of the association and almost no one else. It's really about money and revenues." The NAR, which must be aware of the lurking danger of millions of rescindable contracts, persists in mandating subagency because that is the only way it can hang onto its mainstay—the MLSs.

In 1976, when the NAR defined the MLS as a "means of disseminating information," the California Supreme Court ruled that the Realtors couldn't restrict MLS access to Realtors. "[A]ccess to the multiple listing service is so essential to nonmembers if they are to compete effectively that such access must be granted to all licensed salesmen and brokers who choose to use the service," the court ruled in *Marin County Board of Realtors* v. *Palsson*.

After it was clear California was lost, the Realtors had to do something, or risk losing copycat cases in other states and subsequently their control over the industry. So the NAR changed the definition of the MLS in 1980 to "a blanket unilateral offer of subagency." The sudden embracing of subagency was a

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piece of rhetorical gymnastics for the NAR, whose executive director, William North, had warned of the perils of subagency when he was the NAR's general counsel in 1976.

"They altered the definition of an MLS to include and mandate subagency," said Roark, who added that the system also endangered sellers, who are liable for the subagent's misrepresentations and misdeeds. "If the seller knew the vicarious liabilities that went along with it," he would refuse to list on an MLS, regardless of the system's marketing benefits.

But the NAR must cling to the subagency requirement if it wants to maintain control of the MLSs. How does this work? Well, the NAR argues that subagency is so dangerous, because of its liability problems, that all members of an MLS must be bound by the NAR's Code of Ethics, which means they must join the NAR.

That defense has prevailed in a couple of state court challenges. But the NAR may have a nasty surprise ahead. Though Roark and the FTC will neither confirm nor deny that the agency is examining the NAR for antitrust abuses, investigators have been canvassing the country, talking to people like Ralph Colburn. While Roark won't discuss the existence of an investigation, he did say that one area of persistent FTC interest is the Realtors' commission rates of 6 or 7 percent.

Though the commission rates must be negotiable by law, most sellers don't know this. In 1989, brokers raked in $40 billion in commissions alone. In many European countries, the commission rates are set by law; in Australia, the rate is set at 2 percent. Roark suggests that home-sellers in this country are paying $26 billion more each year on commissions than they would if the NAR did not control the marketplace.

Those huge transaction costs of buying or selling a home make homeownership one of the worst financial deals around, unless the buyer holds on to the house for a long time.

The hefty broker fees are supposedly justified because the agent should be acting as a fiduciary for his client. But as the industry has evolved, real estate agents have become less fiduciaries and more mediators and dealmakers. Consumers are bound to start asking themselves whether such limited services are worth an average brokerage fee of about $7,000. "A broker is just not a lawyer-type advocate," Roark says. "Should people be paying 6 to 7 percent for what they get now?"

Roark recalls a conversation he had with a former president of the California Board of Realtors, who told him that "2 percent is closer to what a competitive rate would be if there were not these artificial structures in the real estate industry." □

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TIDBITS & OUTRAGES

MISUSED TROJANS

A University of Southern California player accused of sexually assaulting a female grad student was in the lineup opening day, replacing a player who was being held out of the game as punishment for missing a team meal.

MAYBE HE SHOULD HAVE TRIED PRAYING OVER HIS CAMPAIGN

The Republican candidate for governor of Colorado, John Andrews, trailing in the polls by almost 40 points, acknowledged that he'd spent two years working on experiments to see how prayer would affect the growth of mung beans, yogurt, and potted plants.

WHAT'S THE OPPOSITE OF CHARISMA?

When a *New York Times* reporter asked people to identify Pierre Rinfret, the Republican candidate for governor of New York, 25 percent could, but 30 percent thought he was a French artist. Others polled thought Rinfret was a perfume, a movie star, a drug dealer, a fashion designer, an advocate for the homeless, a chef, a television journalist, the French ambassador, and a goalie for the New York Rangers. One respondent, shown a picture of the candidate, asked, "Is he missing?"

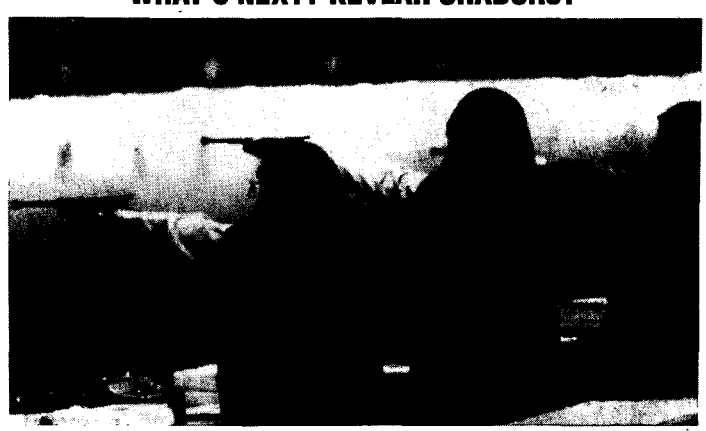
DEAR OLD GOLDEN RULE DAYS

A New York City man is marketing a line of bulletproof clothes and other armored school items for kids. His products include Kevlar-reinforced jackets, t-shirts, clipboards, and briefcases.

UNFORTUNATELY, THIS YEAR THE KIDS GAVE HIM AN UZI

When the governor of North Dakota, George Sinner, was criticized for using a radar detector in his car, he defended himself by saying that the device was a gift from his children.

WHAT'S NEXT? KEVLAR CHADORS?



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11/7/90

TO: SHARON PRATT DIXON
FROM: SCOTT SHUGER
RE: WHAT YOU NEED TO DO NOW

You staked your campaign on the pledge to cut the city's bureaucracy, and yesterday the voters said: "Do it." This is an unbelievable opportunity: the first hopeful moment in District of Columbia politics in a decade and also a chance to show New York, Philadelphia, Detroit, and all the other rotting big city governments how to use personnel cuts to pull back from the brink of chaos and insolvency—to make our schools work, our families secure, and our streets safe. Let's not blow it. Let's get started today.

"Immediately upon entering office, I will conduct a thorough management audit to identify those agencies that are bloated and inefficient," you told us during the campaign. "I intend to cut 2,000 mid-management level paper pushers from the government payrolls." What's worrying me now is that you never went on to say anything more than this about cuts. You recently admitted to the *Monthly* that the 2,000 figure was just "a conservative judgment to give the public a sense of definition of what I'm talking about," and that you would make greater cuts "before we tax everybody out of the city." You should have said the same thing loud and clear during the campaign. Doubletalk about the size of the cuts is deadly most of all because your great strength as a leader is that you tell it like it is.

I'm writing now to raise issues you have to confront starting today if the cause of government efficiency in the District is ever going to be more than just another campaign buzzword:

A. *Making the city work will require firing a lot more than 2,000 people.* Its payroll of 48,000 people—the costs of which take up half the city's annual budget—gives the District nearly *twice* as many nonfederal government employees per capita as California, Florida, or Michigan. And businesses that have shrunk to boost productivity illustrate proportionally much larger cuts than the 4 percent you've advocated. From 1981 to 1989, GE increased its productivity more than threefold and its market value more than fourfold while reducing its salaried staff by 40 percent. (Incidentally, business comparisons aren't made often enough by those in government: One assumption that has no place in bureaucratic reform is "close enough for government work"—the idea that government agencies must be inherently sloppier and less focused than businesses, and hence can learn nothing from them. Even in the District's government there are counterexamples to that: trash collection and parking meter enforcement come to mind. Indeed, comparing the Teutonic precision of the District's parking ticket writers with the Sovietized slow-motion of its ticket processors downtown should suggest that government per se is not the problem.)

As you know, in any organization, there are jobs that are directly related to the manufacture of the product or the delivery of the service and those that are not. Although many of the latter are legitimate managerial, advisory, or technical jobs, once you get away from identifiable makings and doings, there's much greater potential for jobs that don't really count. That's why productive operations exhibit low "mid-level-chiefs/Indians" ratios.

It's scandalous that the city government has taken absolutely no interest in discovering its own chiefs and Indians structure. Nobody among the 371 employees in the D.C. Office of Personnel—an organi-

Scott Shuger is an editor of The Washington Monthly. *Research assistance was provided by Andrew Bates and Patrick O'Rourke.*

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zation that doesn't know it has *almost twice as many chiefs as Indians*. Not the Supervisory Personnel Management Specialist (salary: $70,013). Not the Human Resource Development Officer ($64,041). Nor the Supervisory Personnel Staffing Specialist ($50,653). One official in the city budget office told me, "No one has ever asked that question before. But one of the guys said that if you find anything out, they'd sure be interested in the answer." Curiously, this same man later told me that the problem with saying that you could save money by cutting mid-level people is that there are not enough of them. How does he know? Apprised of the city's utter lack of self-knowledge, a federal personnel official said, "I don't know how they could run a city without knowing that."

A mid-level-chiefs/Indians ratio of .25 means that you have one mid-level chief for every four Indians; generally, an organization fares best when it attains a ratio considerably smaller than that. Quad/Graphics, the company that prints *Time*, *Newsweek*, and the L.L. Bean catalog, has a mid-level-C/I ratio of .11. In its most recent fiscal year, Federal Express turned a profit of $115 million on a mid-level-C/I ratio of .065. Last year, the Fiat auto division made $1.8 billion on a mid-level-C/I of about .045.

One way to see just how far the District has to go to attain real efficiency is to look at *its* mid-level-C/I. The city's personnel categories are set up to approximate those of the federal government's GS schedule, in which grades 12-15 comprise the bulk of middle management, with grades 5, 6, and 7 reflecting much of the troop strength. (Although grades 1 through 4 are still on the books, they are virtually unfilled, while at the other end of the scale, grades 16, 17, and 18 together make up less than three-tenths of a percent of the city payroll.) While there are some counterexamples to tracking bureaucratic function by pay grade—such as a grade 13 dentist at a public health clinic or a grade 12 court reporter in Superior Court, both of whom are clearly service providers—overall, counting Cs and Is by these categories still develops a valid snapshot of government efficiency. Using this approach, you arrive at a mid-level C/I ratio for the District of .30—in the D.C. government, the average mid-level chief leads a tribe of just over 3 Indians.

B. *It's not just political appointees who have to go.* You have described your proposed cuts as "the only responsible way to avoid furloughs of the rank-and-file service providers." Now, this can be taken to mean that other things being equal, cutting mid-level chiefs is preferable to getting rid of Indians; on that interpretation, you should be applauded. But such pronouncements are vague enough to be taken instead as saying that we can solve all the problems just by chopping out political appointees, thus leaving civil servants untouched. That's false. Since there are fewer than 200 political appointees in the District government (and half of those are entitled to retreat to civil service jobs if they are fired), the problem goes far beyond them. You seemed to admit as much when you told the *Monthly* that you will do whatever it takes to get rid of rank-and-file nonperformers. This too is something you need to declare publicly.

C. *Make your strongest efficiency efforts in the worst departments.* That's where the results will be the most obvious and where you can help the most citizens.

➤Thirty-nine of the 45 salaries listed for the Department of Human Services (DHS) on the first page of the District's fiscal publication titled "Serving the People, Meeting the Challenge" exceed $50,000, and none of the other six is below $44,639. But that's what it takes to build up a C/I ratio of .49. (That's just about one chief for every two Indians! And some divisions of DHS run much higher still: Family Services posts a ratio of .91—nearly one-to-one.) On the other hand, if you happen to have a sick baby, and it's after 4:45 p.m. on a weekday or it's a weekend, don't bother visiting the walk-in clinics the department runs. Due to a shortage of staff, they'll be closed (with the exception of one clinic that still offers evening hours). Earlier this year Mayor Barry told Washington's *City Paper*, "I maintain that any woman in Washington who is pregnant, who wants to get an appointment, can get one in less than a month." Serving who? Meeting what?

➤Granted, you do not directly control the public schools—that's the school board's role. But in elections for the board, the mayor's endorsement is among the most sought-after, and you'll be the one setting the overall total for the school budget. So you do have considerable influence on the board. And aren't the schools just too important not to use it to the utmost?

Although the District school system spends 51 percent more than the nationwide average for public schools, only 55 percent of its budget goes to the instruction of students. The panel of civic leaders known as the D.C. Committee on Public Education (COPE) discovered that the city's public schools spend $536 less per pupil on instruction than comparable urban districts. And they get what they pay for: a 43 percent drop-out rate, a high-school grade average of D+, and SAT scores that are about a hundred points off the national norm—and third from the bottom. Nearly a quarter of all the grades given in the city's high schools are Fs. Thanks to the dearth of en-

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riched and remedial courses and activities, in 12 years of school the District's kids average up to two years' less classroom time than the students in the nearby suburban schools.

On the other hand, the system spends 36 percent of its cash on what it calls "non-school-based support." COPE noted that the District employs 1,250 more non-school-based staff than those comparable districts. That's why last year the group recommended eliminating 400 central staff positions. As of this date, however, no administrative personnel cuts have been made. Would a few suggestions help? How about deep-sixing the Research and Data Management Coordinator (salary: $45,218)? Here's the official description of that job: "Reviews and approves requests for proposals. Conducts state research projects for program improvement. Assesses non-public school needs, and maintains accurate child count." Or the Program Monitoring and Evaluation Coordinator (also paid $45,218)? The description: "Ensures program compliance and approval through selected monitoring procedures. Provides technical assistance to programmatic efforts designed to address compliance issues identified in needs assessment. Conducts evaluation of programs, oversees and monitors programs for quality, ensures compliance to guidelines and regulations, updates and ensures compliance to state regulations [WHAT STATE?], maintains liaison to regional resource center, and maintains system inventory." It's hard to understand all this verbiage, but if it says that this person's job is to maintain quality in the D.C. public schools, then this person has failed. And since when do we need to pay somebody 45 grand to take attendance?

The average public school in the District has 45 fire code violations—and there have been attempts to remedy only half of them. The majority of D.C. school buildings have been poorly maintained for decades. Many classrooms are unheated; students and faculty have been injured by falling ceiling tiles, plaster, and window frames. Bathrooms with stopped-up toilets and sinks are commonplace. The showers in some locker rooms have not worked in 25 years. Some schools have only cold water; 24 have no running water at all. There are also chronic shortages of toilet paper, paper towels, and light bulbs. Some schools, apparently not getting any help from the General Supply Specialist, the Supply Management Officer, or the Inventory Management Specialist downtown (each drawing a salary of $35,294) in their attempts to get soap, make their own.

And it's not just worthless administrators that somehow stick around in the schools. Despite the system's dismal academic record, in the past two years, a grand total of *nine* teachers have been terminated as a result of the evaluation system. What's more, that's all the public schools *tried* to terminate. That's nine out of 6,600.

➤Washington's public housing department is sort of the reverse Royal Air Force of city agencies—never before have so many done so little for so many. The department's C/I ratio is an appalling .91. "Having three compassionate, effective people on the staff would accomplish more than the city is doing now in the area of housing," Florence Roisman, a staff attorney at the National Housing Law Project, told me recently. Despite a departmental maintenance payroll that's 50 percent larger than HUD recommends, fewer than 40 percent of the apartments the city targeted for renovation four years ago have been made ready for occupancy. The city's public housing now includes 2,582 empty apartments—a crying shame in a city where homelessness is a major crisis.

At city budget hearings in February 1989, the man who was then the head of public housing maintenance said that on any given day 63 percent of the people under him did not show up for work. Despite this, at the hearings this year, the department did not request new maintenance personnel. It did, however, ask for an additional $141,000 for new staff positions.

Recent correspondence between officials of the District's housing department—including Roland Turpin, the director—and HUD officials indicates that within the past year the city missed out on HUD housing vouchers and certificates worth millions of dollars earmarked for hundreds of homeless families because the department didn't get the applications in on time and because essential documents were missing. No other public housing authority in the country has made that mistake. Even when the department appealed HUD's decision, it still failed to submit complete paperwork. In other cases, the department has withdrawn requests for HUD housing vouchers for the homeless because it "determined that the paperwork and staff time involved in securing the additional funding is administratively infeasible."

In the city you are about to lead, it still takes about *eight years* for a family to be placed in a public housing unit.

D. *You've got to put more cops on the street.* "When I joined the police department in 1968," Lt. Lowell Duckett, head of the D.C. Black Police Caucus, recently told me, "police districts were called police precincts. And precincts were manned by one captain, four lieutenants, and maybe 16 sergeants. Now we have one deputy chief, four captains, and approximately 21 lieutenants per police district. But guess what? The geographical boundaries of the district didn't change." One quick way to effectively im-

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prove the current police C/I ratio of .22—about one chief for every four Indians—would be to put many of Washington's 3,100 under-used federal cops on patrol in the city's high crime areas (there's no good reason the feds shouldn't keep paying for them). Currently, for instance, the Secret Service's Uniformed Division languishes in the tranquil driveways of Embassy Row, watching for action that never comes. These officers are very well-trained and well-equipped; they could make a big difference on some of Washington's mean streets. But instead, as presently deployed, all they do is provide extra comfort to the District's wealthiest residents—which merely reinforces the indifference of the rich to crime elsewhere in the city.

E. *Cutting personnel won't cut the city's costs enough—you have to cut pensions too.* Pension costs are rising much faster than salary costs. The pension expenses that the District is already committed to but which its investments won't pay for—its unfunded pension liability—now run $4.93 *billion*. And probably the biggest factor in the problem is that the city's police and firefighters are able to retire after only 20 years: that's the reason fully $3.25 billion of the city's unfunded pension liability—66 percent—is earmarked for those two groups. The law limits what we can do about the pension payouts due to the 61 percent of the D.C. police force that is scheduled to retire in 1992, but we had better change the rules for the officers who take their place or this city is dead.

It sounds cold to be talking of reducing benefits, and doing so could make it harder on the individual retiree. But the city has legitimate needs too. And is it really so awful to ask people in their forties to work an extra five or ten years?

Ready, Aim . . . Fire

Once you've decided which city employees are unnecessary, then comes the hard part. Firing them. It's not as easy to pry people out of government jobs as it should be, but there are some helpful tricks:

Turkey farming. Inside the District government, this is also known as Pass-the-Trash. The usual version of turkey farming is only a local solution, doing nothing for overall efficiency: Office A wants to get rid of Bureaucrat Boob, so it passes him off to Office B, issuing its glowing recommendation with an internal wink and a grin. But turkey farming can be a useful tool. If you have an employee doing nothing and you'd like to empty out his desk, the trick is to find out what, if anything, he does well. The grumpiest front-office counselor in D.C.'s Department of Employment Services might just be brilliant at some job in back where he doesn't have to deal with the public.

Old-fashioned firing. Of course, if that employee's just plain incompetent, you can get rid of him, even with all those intimidating civil service rules. "People always blame the regulations for keeping a deadbeat around," says one veteran D.C. administrator, "but you can get rid of someone if you're willing to take the heat and do the work." Since documenting a case for termination may take months, many managers decide that they don't have the patience for the inevitable accusations, appeals, and even lawsuits. But D.C. managers do have the discretionary power to fire with impunity the city's nearly 200 political appointees and 3,800-odd probationary civil servants and temporary workers. And even after the employee is entrenched, the regs only require giving 30 days' notice—during which a manager must make an effort to help the staff member solve workplace problems and order an independent review of the case by a "disinterested designee."

The catch is that the District's iron-clad personnel "penalty guide" severely circumscribes what, precisely, a manager can fire someone *for*. Right now, the worst punishment an employee can receive for supplying false information to superiors or the City Council or Congress is a five-day suspension. Same with being drunk or stoned on company time, gambling on the job, or even committing a criminal act off-hours that "discredits the D.C. government." But the mayor can propose revisions to this and all the city's other civil service regulations, and lobby the City Council to pass them. Congress, which technically must approve any such changes, has rarely overturned Council actions.

Consolidation. If you had a single clerk whose job consisted of doing absolutely nothing, your best move would be to simply abolish the job. If you had an office that was doing nothing, you'd dissolve it. Problem is, the jobs and offices that could be slashed without any penalty at all exist only in parodies or business school textbooks. Most people in city government do *something* important—but they may

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F. *Don't be afraid to add people in departments—especially if they are good assessors, auditors, tax collectors, and lawyers in revenue-raising positions.* Talk of cutting can easily degenerate into the mistaken idea that every gain in efficiency requires a reduction in personnel. Net reductions are the rule when the functions in an office are consolidated and when pointless jobs are eliminated (see "Ready, Aim . . . Fire," below). But obviously, when key functions are discovered to be undermanned or manned by incompetents, the reform could easily result in more people, not fewer. One example is in revenue-raising offices. When, on the eve of the D.C. congressional primary, candidate Eleanor Holmes Norton revealed that she and her husband had gone eight years without paying local income taxes, one mystery was how Norton still managed to win. But another much more important one was: How did the city's Department of Finance and Revenue miss the boat? Within days of the Norton story came the news that two candidates for D.C.'s "shadow" Senate seat—Charles Moreland and Jesse Jackson—had likewise not paid some city income tax. But the news didn't come from Finance and Revenue. Could that be because the department has a C/I of .64 and one administrator for every three auditors? How many other tax cheats has the city missed because of that?

And the city seems just as lax when it comes to real estate assessments. D.C. assessments are supposed to represent a property's full market value, so that the property owners pay their fair share of tax. Of course, there are such well-known exemptions as the White House and the National Cathedral. But there are lesser-known ones like the three-fifths of Secretary of State James Baker's $2.5 million house

spend only a fraction of the day doing it. The new administration's task will be to identify the meaningful tasks a worker performs; suspend the pointless duties, memos, and meetings; and splice the worthwhile functions together into fewer job slots.

While reduction in force (RIF) procedures, which reduce the work force by a given percentage or a set number, allow the cleanest cuts, they have one substantial built-in flaw: They operate by seniority, which means the office's freshest blood is the first to be let. The worker you wind up with may be just the oldest, not the best. Here, D.C. has already borrowed a tip from the feds: To give managers more flexibility in keeping the bright young things, it has revised its civil service manual. Nowadays, an employee who receives an outstanding evaluation gets four years of seniority points along with his performance bonus. Outstanding ratings can, of course, be handed out to cronies as well as to great employees. So the new mayor and her team have to keep an eye on who's getting them and why.

Even a whole office that seems fairly pointless—D.C.'s Office of Inaugural Expenses, say—usually performs at least one essential function, like making sure that public money isn't squandered on private extravaganzas. An aggressive manager will abolish the agency and salvage that legitimate function by assigning it to a better-defined unit, cutting out half a dozen managers in the process. (He should also try to place good workers from the folded unit in other, more productive operations.)

Incidentally, in the District you can do this without a RIF, with two crippling caveats. First, the office must not be one specifically created by City Council mandate—the trade-school monitoring office of the Educational Licensure Commission, for example, would require a Council vote to be abolished. And second, you must transfer the "separated" staff instead of firing or demoting them. (Again, Mayor Dixon should convince the Council to eliminate or at least loosen these restrictions.)

Contracting out. Another way to close an ineffective office with a valuable function is to contract that function out. Take the library at the U.S. Census Bureau: Administrators there thought the library was a million-dollar drain on their budget and the librarians a drain on their patience. So they simply contracted the whole thing out and transferred or fired the unpopular staff. The library still sits in the building, but the cost is hundreds of thousand of dollars less, and the administrators' grave problem—impolite librarians—was solved. To be sure, this is a technique to be used with caution—pocket-padding contractors can be more expensive and dangerous than languid bureaucrats. But the virtue of legitimate contracting is that the courts have consistently upheld the manager's right to use it to cut staff.

—Katherine Boo

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on which he pays no city tax. Or the half of Oliver North attorney Brendan Sullivan's $1.75 million residence that also skates by tax-free. That's how far off the market the city assessments are. Some other examples: Attorney General Richard Thornburgh (market value=$475,000/assessed value=$249,635), publisher Bill Regardie (MV=$1.5 million/AV=$760,000), Rep. Lindy Boggs (MV=$900,000/AV=$253,450), real estate mogul Calvin Cafritz (MV=$2.8 million/AV=$1.5 million), commentator Carl Rowan (MV=$950,000/AV=$516,679), and rejected judge Robert Bork (MV=$925,000/AV=$570,000). And while it's not the most spectacular example, even *your* house is underassessed by nearly $100,000 (MV=$350,000/AV= $253,475).

Additionally, in appeals this year of real estate assessments, when the city's attorneys went up against those representing property owners, they got their heads handed to them: the result was a loss of $36.8 million in tax revenue.

Clearly then, the city could use better staffing in the revenue-producing jobs. Besides the financial reason for hiring in these slots, there's a crucial social one. One of the biggest obstacles to pruning back the city's bureaucracy has been the fear that the axe would fall disproportionately on the working class. Well, setting more employees to work on recovering funds owed by the city's rich is a very good way to share the burden of making government more efficient.

G. *This problem can't be solved on paper.* This is just the first wave of tons of printed advice you will start receiving immediately. Besides all the unsolicited help you'll be getting from the press, the commission on budget and financial priorities for the city will soon release its findings (that's the one headed by Alice Rivlin, former head of the Congressional Budget Office, that reportedly calls for cutting 6,200 jobs). And there are the city-wide audits by outside firms that you intend to order up yourself. Please read all these things carefully and with great openness, but always remember one thing: No matter how insightful, no column, no report, *is* the solution. Making the city conform to the right ideas, once you find them, is not something you can do at arm's-length. You have to get in peoples' faces. Government is not a science—it's a contact sport. Here are some winning plays:

➤The ultimate weapon of the redundant employee is his belief that any cry for reform will blow over—that he can outlast this new threat just like he's survived all the rest. So it's crucial that you stock your administration with people who make it plenty clear they are going to be there longer than one or two years, long enough to "out-tough" the opposition. (By contrast for example, during the eighties, DHS changed heads nine times.)

➤Especially if you are armed with a commission report or two, there'll be a great temptation for you to sweep into office with a lot of theories about what's screwed up and how to fix things. Avoid that. Your theories may be right, but what have you got to lose by testing them against the evidence of the organization itself? On the other hand, there is plenty of danger in "reforming" activities you don't understand. (Like every other journalist, I have at times missed out on an important dimension of a fact because I didn't want to appear foolish for not knowing it.) So resist any temptations in yourself and your staff to play rocket scientist and opt instead for being the Mayor from Mars. Start by finding out what the Indian level of the outfit is—where the ultimate function of the office is supposed to be performed (if nobody seems to know, you've learned something important already)—and by finding out what those people do all day. Ask them what their main problems are. Ask them to identify their important tasks and their unimportant ones. Ask them which supervisors are good, and which aren't so good, and why. When you think you have a handle on the troop functions, you should work yourself up the chain of command rung by rung, asking questions along the way. Despite all these details, do this hard job *as quickly as possible.* The sooner you identify the problems, the sooner you can solve (fire) them.

➤And even after you've done all this, you have to be sure you always know what those Indians are doing, with a constant eye towards streamlining offices and eliminating pointless job slots and bad performers. You just can't overstate the amount that gets lost in translation between you and the troops—if you let it. I know you had a big job at Pepco , but I don't think you had to worry in the middle of the night about whether the lines were down. Now you do.

And finally, bureaucratic reform goes nowhere without guts. Firing people is not the world's most pleasant task. Sub-par performers can be nice, they often have families, and most distressing of all for a politician, they have votes. (Ditto for competent people in pointless jobs.) The traditional alternative to the real courage it takes to shake a man's hand and tell him he's through is to give him a make-believe job where he doesn't bother you or, better yet, transfer him to somebody else's office. Not only is this personally corrupting, but for the government it's the very stuff of inefficiency.

That's why it worried me when you recently joked that your cuts of mid-management employees would effect "nobody I know personally." Up until now, that joke has always been on us. □

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MANHATTAN ON THE ROCKS

Moderate black leaders could save New York from the Sharptons and the Brawleys

by Jonathan Alter

A New York story:

Our building superintendent tells us there was another murder in the neighborhood. Over on 108th St., a 23-year-old immigrant from the Dominican Republic was rubbed out in a drug deal. The next day brings the murder of a Utah tourist trying to help his mother in the subway. Like millions of other New Yorkers, my wife throws up her hands. That's it. We're outta here.

Then, as if we were previewing some warped new civic ad campaign, the other New York springs to life. We return from a Saturday evening out to find our tree-lined street bathed in the loudest music imaginable. But this time it's not the usual salsa beat. In fact, the Puerto Ricans and Dominicans who normally keep the neighbors up are shaking their fists and muttering oaths. Like something from heaven or a movie set, glorious Vivaldi is pouring forth from a sixth floor window. Loud. A barechested teenager previously seen in possession of a boom box summons the cops, who arrive after the music has stopped. It came from up there by that air conditioner, the youth plaintively tells the police. They laugh in his face.

This is what constitutes a "good" story in New York, 1990. It's not about skating in Central Park or finding the perfect new restaurant. The theme is survival and hanging onto a few shreds of dignity in a Hobbesian world—plus a little revenge on the punks who make life so fearful. When the PBS-Lincoln Center-Vivaldi crowd starts thinking like the Queens working class it once snubbed, something fundamental has changed. But even the satisfactions of outrage are waning. In his engrossing and important book,* Jim Sleeper argues that the classic New York resentment featured in popular culture has evaporated in a pool of weary cynicism: "From Ralph Kramden, the garrulous but decent 'big mouth,' and Archie Bunker, a quiver of barbed retorts against shrinking horizons, we have come down to a word of resignation spoken anonymously in the street:

'Fuggedaboutit.'"

What's extraordinary about Sleeper's book, though, is that I put it down feeling more optimistic about the city. Part of the reason is that he identifies inspiring examples of virtue amid the rubble. But another part is a result of who Sleeper is and what he has done. The tendency nowadays is to say that anyone who attacks affirmative action and vigorously points out where blacks have hurt themselves must, by definition, be a conservative or neoconservative. But Sleeper is not only a former liberal activist (now an editorial writer for *Newsday*) he is *still a liberal*. Liberals and black militants ("professional blacks," he calls them) are the principal villains in Sleeper's book. Yet no one can accuse him of becoming a Reaganite, for Sleeper refuses to Forget About It. In his wordy but passionate editorial-writer prose, he puts

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**The Closest of Strangers: Liberalism and the Politics of Race in New York*. Jim Sleeper. *Norton, $21.95.*

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us right up against the wall of race and class, where we can't ignore it any more. That is liberal in the best sense of the word.

Courting disaster

Much of the book is a thumbnail history of how New York's neighborhoods went down the tubes. Having edited a community newspaper in Brooklyn and covered city politics for *The Village Voice*, Sleeper comes by his observations first-hand. But the larger picture is vivid, too: "The confluence of radical spite, absurd legal extrapolation, and liberal disdain for white ethnics that led to forced busing, the bloating of welfare rolls, and the mau-mauing of white teachers broke the spine of New York's civic culture," he writes. Some critics of the book have focused on this sentence and other like it as evidence that Sleeper is roiling the rhetorical waters at a time when they've been roiled quite enough. It's a valid point. But before racial calm comes honesty, and this book is a good place to start.

Earlier this fall, veterans of the Lindsay administration gathered for a reunion. The *New York Times* story focused on how well they had done in the private sector in the years since. Sleeper recalls a grimmer legacy. What Lindsay's limousine liberals didn't realize was that their alienation of white ethnics in the outer boroughs would damage New York into the 21st century. These whites didn't have to put up with it; thousands simply fled. Their reaction was not only to crime itself, but to how it was being addressed. Sleeper establishes that the William Kuntslers of the world were more than just annoying; they actually helped destroy a delicate urban organism that had taken shape over generations. The courts, far removed from the community, were a horrible venue for liberal reform. And it wasn't just the whites who were alienated by the response to crime. The real racism, Sleeper argues, isn't against black defendants but against black victims, who make up the vast majority of those robbed and murdered. Like the whites, they, too, have been ignored and patronized by the Kuntslers.

This book is as much about class as race. Mario Cuomo first became well known in New York for skillfully mediating a dispute in Queens in the early seventies over a plan to put a large housing project in the white middle-class neighborhood of Forest Hills. Cuomo notes that when public housing for the poor was proposed for a *black* middle-class neighborhood called Baisley Park, the residents were "even more ferocious" in their opposition than the white residents of Forest Hills. For all of that, liberals were determined "to blame white ethnics for black deprivations really caused by social arrangements that benefitted primarily the liberals themselves," Sleeper writes. More specifically, many of these same liberals turned up as the real estate sharks of the eighties.

Great serve, poor service

Even if one views blaming liberals as tiresome, Sleeper goes on to do something almost no one dares: he blames blacks. This is still the third rail of American politics, and he does more than touch it; he embraces it. Yet the analysis is so discerning that only an Al Sharpton would accuse him of racism. Sleeper is unequivocal; it is that very charge that now afflicts us: "Nothing further can be gained by blaming racism as such for the mayhem engulfing poor neighborhoods." Yes, Ed Koch played the race game with white ethnics; he "gave them the theater of their bitterness." But two wrongs don't make a right. White racism does not excuse black crime or black racism or black lying. In this, Sleeper gives voice to what practically every white person in New York already believes.

Except, perhaps, Mario Cuomo. For the governor, too, is viewed by Sleeper as falling prey to a portion

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of this double standard, implying that Reaganism excuses some of what's wrong on the other side. "It was almost as if he were saying that tax deductions on luxury vacation homes for the rich somehow justify promotions of minority police officers who failed a test or toleration of Glenda Brawley's [Tawana's dissembling mother] refusal to answer a subpoena," Sleeper writes.

He echoes the neoliberals' favorite black thinker, Shelby Steele, who writes that "we [blacks] hold up race to shield us from what we do not want to see in ourselves." But Sleeper is white, and he gives the argument a moral edge that blacks don't usually appreciate hearing from whites: "Some [blacks] have stopped following Martin Luther King's admonition to 'burn the midnight oil' in order to compete with their white counterparts, demanding instead a formulaic inclusion," Sleeper notes as part of his attack on affirmative action. The argument is more convincing when it comes from blacks, but that doesn't mean Sleeper shouldn't have made it.

Many blacks and the handful of liberals still left in New York will no doubt react badly to this book. They shouldn't. For instead of just criticizing, Sleeper offers some alternatives, which come in the form of names of groups almost never heard on the local news: East Brooklyn Congregations, Industrial Areas Foundation, the Science Skills Center. These are largely black organizations that have rejected the racial politics of New York City. They concentrate on housing, education, and drug prevention programs that work and that need our help.

He also finds hope in a place where people least expect it: electoral politics. For non-New Yorkers, the descriptions of the divisions between Harlem blacks and Brooklyn blacks may be too detailed. But one of Sleeper's larger points is relevant to any big city. Sleeper proves through an analysis of recent election returns that most blacks prefer black candidates whose appeal transcends race. They may identify with some of the demagogues' messages, but they know, at bottom, that they must work with whites. Right now, David Dinkins is looking like a loser; he seems to show more interest in tennis than in the problems outlined in this book. But because he represents a *rational* black response at a time when even many middle-class blacks are tempted to think irrationally, his fate is of tremendous consequence. It's wrong to say that politicians like Dinkins can't do much to save New York. They represent the only pocket of hope in the tides of despair now engulfing the city. □

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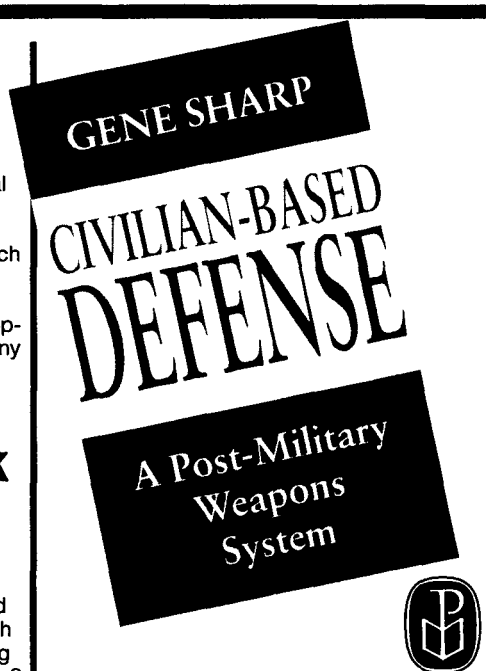

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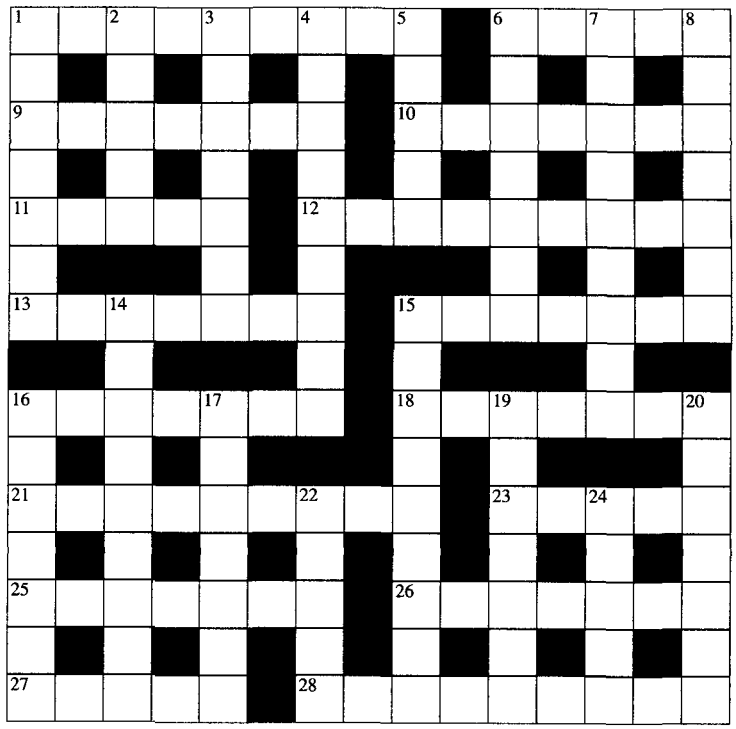
POLITICAL PUZZLE

by John Barclay

The numbers indicate the number of letters and words, e.g. (2,3) means a two-letter word followed by a three-letter word. Groups of letters, e.g. USA, are treated as one word.



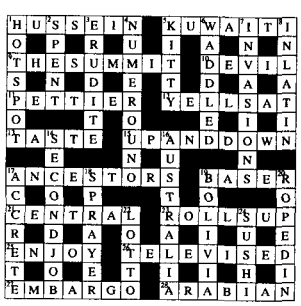
ACROSS

1. Separate out what Spanish found in transplanted trees. (9)
6. Means French first put Notre Dame in this country. (5)
9. Choose Egyptian god for tragic heroine. (7)
10. Praises reorganized Maine company. (7)
11. Country displays acquaintance with Yale's start. (5)
12. Designed piper shed and passed on. (9)
13. Went out again with Marxist followed by one Kennedy. (7)
15. Fancy eagle in ancestral trail. (7)
16. Ensemble to wear around the bureau. (7)
18. Savagely cusses lilac's last for good result. (7)
21. Posh rides arranged to get to balls. (9)
23. Designate ball thrown around back of first base. (5)
25. State in the manner of 2 degrees. (7)
26. Apartment aide tossed into jar. (7)
27. Restrict high around 1001. (5)
28. Cooked cabin meal to correct deficit. (9)

DOWN

1. House leader in Hall of Fame? (7)
2. Game piece in unique engagement. (5)
3. The essence of former propaganda piece. (7)
4. London commuter Teddy married in haste. (9)
5. Spins or else, confused, lacks nothing. (5)
6. Data particle group. (7)
7. Neat and ample style for 23 Across. (9)
8. Cozily nested around a surplus patron. (7)
14. Altered diagram about acid test for partition. (9)
15. Sloppy Joe as slob becomes eligible for benefits. (5,1,3)
16. Looked back to depart for holiday liquor. (7)
17. Boss's share is rather unclear around finish of trip. (3,4)
19. Pass single Latin military man. (7)
20. Gulpers scrambling for big outing. (7)
22. Middle Eastern terrorist group sits on bad intelligence. (5)
24. Often passed in relay races but never out of them. (5)

Answers to last month's puzzle:



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PEROT AND CON

What America's most famous billionaire could learn from a South Texas rabbi

by Peter Elkind

When I first met Ross Perot, he was pacing about his office, lamenting his personal role in the incineration of Yellowstone National Park.

It seemed the Texas billionaire had a friend who, shortly after the mammoth fire started, had tipped him to the fallacy of the National Park Service's "let-burn" policy. Because he had failed to alert the nation, Perot reasoned, he had to shoulder the blame for the immolation of the park. "I'm better than that," Perot declared, slamming a bony fist on his antique desk. "I could've raised enough hell that they would've *had* to put the fire out."

At first glance, it seemed . . . well, a little kooky. How many corporate executives regard fighting forest fires as their personal burden?

Therein lies the magic—and mystery—of H. Ross Perot.

No other private citizen has embraced so many monumental public missions: freeing POWs in Vietnam; waging war on drugs; salvaging public education; reversing the decline of industrial America. Perot's immense wealth (about $3 billion), blunt talk, and daring exploits (most notably, organizing a private commando team to free two employees held hostage in Iran) have combined to make him America's most intriguing—and most publicized—businessman.

Yet, partly due to his genius at crafting his own image, Perot remains poorly understood. What motivates such a man? Is he a right-wing nut or a populist visionary? Why aren't there more like him?

With Perot as the central character, even a corporate merger assumes the dimensions of a public saga, grand enough to inspire two separate additions to the library of business literature. Doron Levin's book* focuses on the deal itself, the ill-fated 1984 marriage of General Motors and Perot's Dallas-based Electronic Data Systems (EDS). Todd Mason, a former reporter for *BusinessWeek,* reaches more broadly, with what is conspicuously subtitled "an unauthorized biography"* (translation: "Perot wouldn't talk to me").

Levin, who covered Perot for *The Wall Street*

Peter Elkind is an associate editor of the Texas Monthly.

**Irreconcilable Differences: Ross Perot versus General Motors.* Doron P. Levin. *New American Library, $9.95.*

**Perot.* Todd Mason. *Business One Irwin, $19.95.*

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Journal and is now Detroit bureau chief for *The New York Times,* hews closely to the natural narrative of the "deal-book" genre. The story is cleanly written and well reported, filled with backstage detail. It illustrates how the greed of investment bankers—rather than good business sense—drove so many of the mega-deals that dominated Wall Street in the go-go eighties. It was a Salomon Brothers partner, for example, who first pitched the idea of GM buying EDS. In these pages, the feud that erupted between GM's Roger Smith and Perot, as well as those who worked for them, unfolds as the inevitable product of an ill-conceived union of disparate corporate cultures.

Data games

Levin, however, does little to explain the riddle of Ross Perot. A biographical section mostly retraces the familiar turns of the Texan's legend: his Norman Rockwell-esque childhood (small-town boy who loved his mother, Eagle Scout, Naval Academy); his frustrations as an IBM salesman (in one year he earned the maximum annual commission by January 19); and his decision (while sitting in a barbershop, after reading a passage from Thoreau) to start EDS, the computer services company that made him a billionaire.

When the story moves to Perot's later years at EDS, we catch the first hints of his darker side, with a brief account of his vicious "scorched earth" campaign to discredit a competitor who had outbid EDS for a $2 billion Texas data-processing contract. (After much mudslinging and political arm-twisting, EDS regained the contract.)

By the end of this book, Perot emerges as flawed—manipulative, insensitive, and arrogant. His selfish motives for agreeing to sell his company—money, power, and attention—are noted. But they are treated ultimately as secondary considerations. Levin doesn't question Perot's public assertions that he entered into the marriage with GM as yet another philanthropic mission: to save America's largest automaker. Perot is the clear hero in this tale, portrayed (as on the cover of the hardback edition) as a David bedeviling Goliath.

As Perot skillfully embraced that role, the business press delighted in his every pronouncement. After all, much of what he had to say about GM's management—its bureaucratic mentality ("revitalizing General Motors is like teaching an elephant to tap dance"), its isolation from the average worker, and its inattention to the basic product—had the unmistakable ring of truth.

But was Perot's approach the best way to salvage GM? Could Perot have employed any other tactics? Content with offering the play-by-play, Levin never bothers to wrestle with those questions. Mason's biography—and subsequent events—provides some additional clues.

On Wings of Escrow

While Levin clearly relied on Perot and his associates for much of his detail, Mason, who initially sought a collaboration, seems to have been liberated by his subject's refusal to cooperate.

Forced to rely on others, Mason has dug up an assortment of fresh nuggets. We learn that some of Perot's self-spun tales about his youth in Texarkana are embellished. One boyhood friend, for example, brands as "bullshit" a famous anecdote about Perot delivering newspapers through the local black ghetto on horseback.

Mason also reminds us that the man hailed as a hero in the 1980s by GM's unions waged open warfare with organized labor in the 1960s. When one California facility voted to organize, Perot shut the place down, writes Mason, "rather than tolerate a union beachhead in EDS."

Mason reveals Perot's genius for media manipulation. After hand-picking spy novelist Ken Follett to recount EDS's Iranian rescue mission (eventually titled *On Wings of Eagles*), Perot personally negotiated changes in the manuscript with the benefit of the ultimate leverage—the right to kill the project by paying the publisher $1 million. Perot even retained casting and script approval for the resulting TV miniseries.

With the aid of depositions from a subsequent court fight, Mason also offers a distinctly different view of Perot's battle with GM. If the automaker was slow to change, Perot was too often uncompromising, refusing to budge, threatening "World War III." He suggests Perot was incapable of answering to others or working within a system. He "misunderstood the challenge at GM. The rules of warfare are different inside the castle walls, where . . . feats of individual bravery are less important than cooperation."

Perot also could be disingenuous. Mason notes that after GM's board decided to buy out the troublesome Texan, Perot privately negotiated a premium price of $742 million for his stock, then publicly denounced the expenditure as outrageous at a time GM was closing plants. Perot embarrassed GM with his announcement that he would put the money in escrow to give the automaker a chance to reconsider, but, as Mason reports, he never actually sequestered the funds.

After the buy-out was complete, Perot raided EDS's ranks to launch a competing data-processing

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company. In an extraordinary act for a man who spoke loud and often about loyalty, he ridiculed the new EDS management—executives he once trained and praised—and predicted disaster for the company. The forecast has proved wrong. Relations with GM have improved; earnings and profits are strong. Perot, writes Mason, "reacted badly to the news that EDS could live without him."

Although *Perot* contains a welcome, less starry-eyed view of its subject, as well as some good—if incomplete—reporting, terrible organization dooms the book. Instead of chronological structure, individual chapters jump back and forth wildly in time. This makes it difficult for the reader to see how events—and the passage of time—have shaped Perot.

Texasvillain?

Reading the two books, we are left with the contradictions. Ross Perot is the demagogue who whipped up antidrug hysteria in Texas by catering to the worst fears of affluent white parents. In 1988, he proposed solving Dallas's drug problem by cordoning off infested black neighborhoods and sending in hundreds of cops for house-to-house searches. Yet the same man magically brought groups of Texas businessmen to their feet with a call for higher taxes to fund his splendid vision of transforming the state's dismal system of public education. And he had the will to push through a package of legislation aimed at realizing that vision.

Perot defies easy comprehension because he is no ideologue: he reacts to issues on instinct. When right, he is an incomparable ally; when wrong, he is a fearsome foe. There is a simple reason: Whatever course he selects, Perot is always utterly convinced of the righteousness of his cause. Those who disagree with him not only become the enemy, they take on dimensions of evil.

Perot often quotes a remark by Winston Churchill that he clearly has embraced as his credo. "Never give in. Never give in. Never. Never. Never." The comment appears in both these books, as it did in a magazine profile of Perot I wrote two years ago. A few weeks after my story appeared, I received a letter from a South Texas rabbi. He suggested that Perot should quote Churchill's complete statement: "Never give in—in nothing great or small, large or petty—never give in except to convictions of honour and good sense." □

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POLITICAL BOOKNOTES

Keeper of the Gate. Selwa "Lucky" Roosevelt. *Simon & Schuster, $21.95.* For seven hectic years, "Lucky" Roosevelt was U.S. Chief of Protocol —the Emily Post of the State Department, guardian of the nation's manners.

When she stepped down in 1989, she had served longer than any other chief; had hobnobbed and traveled with royalty; wined, dined, and yachted with the rich and celebrated; seated thousands of dinners; attended untotaled receptions; presided over innumerable state visits and official functions; and indulged the whims of potentates and presidents. She had also dealt with the daily problems of the diplomatic corps, supervised the multi-million dollar renovation of Blair House, and most of all, tried to please an enigmatic Nancy Reagan, whom she refers to as a "perfectionist."

All of the above, plus her own ambition and determination to rise to the top, are described in this somewhat pretentious memoir, which offers up a number of amusing anecdotes and stories but is marred by an overabundance of self-flattering tributes, letters, and comments.

There is no doubt that Lucky Roosevelt knows the nuances of the capital—how to pull strings and get things done. The daughter of Lebanese immigrants, she was raised in Tennessee, won a scholarship to Vassar, and gained entree to the highest social echelons after a whirlwind courtship and marriage to the late Archibald Roosevelt, a former CIA honcho and grandson of the legendary T.R. (Her depiction of her humble Arabic origins and her climb to the exalted world of super WASPs, with all their pride, privacy, and stinginess, is among the most compelling parts of the book.)

A stint in the fifties covering Embassy Row for *The Washington Star*, and later writing travel articles for *Town & Country*, added to her knowledge of the *haute monde* and the dos and don'ts of polite society.

It was a luncheon she gave for Nancy Reagan in the early 1980s, however, that placed her firmly on the political/social map. Shortly thereafter, Roosevelt, a die-hard Republican, wrote a column for *The Washington Post* in which she attacked the press for its criticism of the First Lady and implored the media to give Nancy Reagan a break.

"When are you going to stop expecting her to conform to certain criteria to please the fourth estate—criteria, I might add, that change as frequently as the hemline and seem just as capricious?" she wrote.

Several months later, Roosevelt was offered the protocol slot and Nancy Reagan dubbed her "my first defender."

Despite this attention, Roosevelt puzzles over Mrs. Reagan's lack of congeniality. She notes that the First Lady never complimented her on her work and says their relationship was strictly business, nothing more, always "cordial and correct."

Roosevelt is no shrinking violet, but this is not a knife job or a backstabbing tale. There is no scandal, no scuttlebutt, no startling revelation. She does not blot her copy book by lashing out, preferring instead to heap plaudits on those with whom she established a rapport and to dismiss others as obstructionist and uninformed.

White House advance men fall into the latter category and are singled out for special ire. Her problems with these macho types began the first day on the job, and she labels them "munchkins," "mice," and "little shits."

There are glowing sketches of former Secretary of State George Schultz, George and Barbara Bush, Ronald Reagan, Queen Elizabeth and Prince Philip, Malcolm Forbes (whose yacht she frequented), and the Crown Prince and Princess of Japan.

Roosevelt reveals the secret of Margaret Thatcher's stamina—she requires only four hours of sleep a night. She also compliments her thoughtfulness, her good manners, and commends her practicality. "Unlike most male heads of state, Mrs. Thatcher traveled light. Her entourage was the smallest we ever dealt with. She was so secure emotionally and intellectually, she did not need hordes of tom-tom beaters to impress people with her importance."

According to Roosevelt, female heads of state, like Thatcher, were often savvier and more assured than their male counterparts and, to achieve their goals, always ready to employ their feminine wiles. One is therefore baffled at the end of the book when Roosevelt suggests her successor be male. Her reason? The position was being downgraded because it was perceived as "a woman's job." A female can never be "one of the boys," she notes plaintively.

—*Sandra McElwaine*

In the Time of the Tyrants: Panama, 1968-1989. R. M. Koster, Guillermo Sánchez Borbon. *Norton, $22.95.* Yet another book on Panama! After the appearance earlier this year of John Dinges's *Our Man in Panama* and Frederick Kempe's *Divorcing the Dictator,* there would seem little left to say about this tropical outpost of two million people. Among Panama-watchers, though, this new volume has been much anticipated. Unlike Dinges and Kempe—both American journalists—Koster and Sánchez are longtime residents of Panama who have participated in the bizarre events shaking that country.

Koster, an American novelist who moved to Panama many years ago, is best known outside the country for his cameo appearance in Graham Greene's *Getting to Know the General.* In that book, Greene, preparing to attend a party, is warned about an American "who would certainly turn up whether he was invited or not—a writer called Koster who lived in Panama City and was supposed to be a CIA agent." Hmm. Sánchez, a native Panamanian, is a popular

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columnist with *La Prensa*, Panama's most important and courageous newspaper. A relentless foe of Manuel Noriega, Sánchez was forced into exile in 1985. In 1987-1988, he collaborated with Koster on two articles about Panama for *Harper's*. Vividly written and boldly argued, the pieces helped galvanize anti-Noriega sentiment in this country. *In the Time of the Tyrants* grew out of those earlier articles.

Noriega is not the chief tyrant in this account. Anyone looking for new dirt on the drug-running dictator and his ties to Washington will be disappointed. The focus instead is on Omar Torrijos, the charismatic, mercurial general who ruled Panama from 1968 until his death in a helicopter crash in 1981. It's a timely topic. Since the U.S. invasion, *Torrijismo* has been the subject of intense political debate in Panama. The government of Guillermo Endara, intent on eradicating all vestiges of the military regime, has gone after Torrijos with a vengeance, casting him as the despoiler of Panamanian democracy. Among its first acts, the government dropped Torrijos's name from the international airport in Panama City. But a small vocal group of Noriega loyalists and left-leaning politicians and intellectuals is upholding Torrijos's memory. To them, Torrijos was a nationalist hero who spoke for the Panamanian masses while standing up to the United States.

Koster and Sánchez are squarely in the anti-memorial camp. *In the Time of the Tyrants* represents a concerted—one might say obsessive—effort to demolish the Torrijos legend. The general comes off as a nasty, brutish thug, interested mostly in screwing—his own country as much as beautiful women. When the Shah of Iran, ailing and alone, seeks refuge abroad, Torrijos almost alone among world leaders agrees to take him in—then makes repeated passes at his comely wife. While professing love for the campesino, Torrijos arranges the murder of a popular priest trying to help the poor. The general holds fraudulent elections, rigidly controls the press, and jails his political opponents. Throughout it all, he drinks to excess. Jack Vaughn, the U.S. ambassador to Panama in the early 1960s, saw Torrijos on some 50 occasions, we learn, not once finding him sober.

In the view of Koster and Sánchez, nothing Torrijos did deserves praise. Not the introduction of a new labor code—"it was destined to hurt production and swell unemployment." Not the reform of the nation's health-care system—"equality was achieved all right, but at lower standards." Not even the Panama Canal treaties. Regaining control of the canal had long been Panama's single overriding goal, and Torrijos's success in negotiating it won praise from even his fiercest critics. Not Koster and Sánchez, though. "Panama was (and still is) a country with cancer, a conquered land pillaged by vandals," the authors write in typically purple form. "Anything that might have benefited Panama had Panama been healthy, had it been free, merely fed the cancer, strengthened the barbarians." Koster and Sánchez discern only one real achievement in Torrijos's 13-year rule—turning a major thoroughfare in Panama City from a two-way into a one-way street, thereby easing traffic congestion.

This is far too grudging. Torrijos was certainly a tyrant, and the authors have performed a service in chronicling his excesses, especially now that efforts are afoot to rehabilitate him. In their zeal to tear him down, however, Koster and Sánchez have distorted the past. In spite of his misdeeds, Torrijos embodied a critical development in Panamanian history—the breaking of the white oligarchy's lock on economic and political power. Until Torrijos arrived on the scene, Panama's *mestizo* (mixed race) population—70 percent of the total—had little say in running the country. Torrijos brought many *mestizos* into his administration, and his reforms, though often stillborn, did reflect the broad aspirations of the Panamanian people. Anyone who today attempts to turn back the clock and exclude this group from power risks provoking an explosion. It remains to be seen whether the Endara government—largely white and well-heeled—grasps this. Koster and Sánchez certainly don't.

In one of their *Harper's* articles, Koster and Sánchez described in chill-

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ing detail the murder of Hugo Spadafora, a leading Noriega antagonist. They have incorporated that account into their new book. Noriega's agents, they relate, after beating Spadafora at length, took a sharp knife and made two deep cuts on the inside of each of his legs, from just above the knee to mid-thigh. The point "was to disable his thigh muscles so that he couldn't close his legs and disturb the pleasure they meant to take of him." The autopsy, they continue, "found Spadafora's testicles monstrously swollen, the result (it seems) of prolonged [torture]. And something was jammed up his rectum, a pole of some sort. The autopsy found his rectum massively damaged."

A horrible, horrible end. When the account of it first appeared in *Harper's*, it caused quite a stir. But John Dinges, researching the matter further for his own book, discovered some discrepancies: "A lurid description of Spadafora's alleged sexual tortures is contained in an article in *Harper's*, June 1988. . . . The central, gruesome detail is that Spadafora's leg muscles were severed in order to keep him from closing his knees during the torture. The alleged cuts to the inner thighs were not mentioned in the autopsy or in [a prominent doctor's] analysis. The autopsy records no trauma at all to the genitals or anus, although it notes the presence of hemorrhoids. . . ."

Dinges's book appeared more than six months before this one, allowing ample time for rebuttal. Koster and Sánchez offer none, raising further questions about the accuracy of theirs.

—*Michael Massing*

Good Intentions: How Big Business and the Medical Establishment Are Corrupting the Fight Against AIDS. Bruce Nussbaum. *Atlantic Monthly Press, $19.95.* In critiquing the medical-industrial complex and the orthodox old-boy AIDS network, *Good Intentions* adds to the history of AIDS, bringing to life the people who shepherded the drug AZT from laboratory to patient. Nussbaum thoroughly records their smelly backroom deals, bureaucratic botchings, conflicts of interest, and peccadillos. He also chastises the powers-that-be for ignoring (and deep-sixing) drugs other than AZT and toasts the researchers and people infected with the AIDS virus who bucked the system and started their own community-based drug trial programs. And Nussbaum's business writing seems largely on the mark, which is to be expected from a veteran *BusinessWeek* hand. He convincingly shows how the Food and Drug Administration (FDA) favors pharmaceutical giants like Burroughs Wellcome over underfunded startup companies that have interesting products but can't afford the regulatory process. The way Burroughs's David Barry sailed AZT through the regulatory doldrums of the FDA, his old employer, is a classic it's-who-you-know tale. Yet Nussbaum undermines his credibility with error after error, sullying the genuine facts in the book.

The biggest hoot comes early on. "It is a polite fiction that scientists at the NIH [National Institutes of Health] and the drug companies work for the public health," Nussbaum posits. "They really work for credit and cash." As Nussbaum himself might say in the flabbergasted voice he maintains throughout *Good Intentions*: Shocking.

While NIH scientists should always put the public good above their own gain, since when are drug companies held to that standard? Burroughs Wellcome's original $10,000-a-year asking price for AZT *was* offensively high, but so are the price tags on plenty of other drugs (cyclosporin, which prevents the rejection of transplanted tissue, costs $13,000 a year). The fact is, in the U.S., health care is a for-big-profit industry. Nussbaum doesn't analyze whether this is good or bad, opting to attack the symptoms rather than the disease.

Three pages later, Nussbaum gets his medical history wrong. "In the fifties," he claims, "it was polio that received the big government research bucks." Not so. In the fifties, as Jane S. Smith details in her new book *Patenting the Sun: Polio and the Salk Vaccine*, the National Foundation for Infantile Paralysis/March of Dimes funded the bulk of the polio research. She cites congressional testimony in which an NIH director noted that in 1953 the NIH spent $72,000 on polio research, while the private, volunteer National Foundation spent nearly $2 million. Indeed, the National Foundation deserves most of the credit for "conquering" polio. Nussbaum's mistake is not a minor historical inaccuracy: The private funding of polio research raises an intriguing, big-picture question about the role of the federal government in the search for a cure for AIDS, a question he skips.

But time and again a scientific—not a historical—error breaks the book's momentum. This is just a further reminder of how, because complicated topics are easy to screw up, science has long been the journalist's bane. Many major dailies now assign MDs and PhDs to their medical beats. Some publications with long lead times have researchers vet their science articles. And reporters often read or fax technical passages to their subjects before going to press.

Nussbaum's science reporting fails on two levels: when he does it and when he doesn't. For most of *Good Intentions*, Nussbaum assiduously avoids the wily nature of the AIDS virus and the obstacles that drugs combating the microbe must overcome. The strategy might work for an article in a business magazine, but for a book recounting scientific tales, it chips away at his authority. More troubling still, when Nussbaum does delve into science, he's often embarrassingly wrong on important issues.

According to Nussbaum, the scientists at Burroughs Wellcome, the company that marketed (and, depending on your point of view, developed) AZT, "didn't know" how the drug worked. Says who? While Burroughs Wellcome may have had difficulty proving exactly what AZT did in the body, to say the company didn't know how the drug worked is hyperbole. Human immunodeficiency virus (HIV), the causative agent of AIDS, infects cells and then replicates. There are 15 steps in this process, one of which AZT interrupts, stopping HIV's replication. To spare you the details, scientists have a solid idea which of these steps AZT interferes with and how the drug does its thing. As Nussbaum even reveals at one point, the scientist who invented AZT in the early sixties, Jerome Horwitz, had a good hunch about the drug's mechanism of action—though he couldn't

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prove it in cancer cells back then. "The way we hoped the drug would work against the cancer cell is just how it works against the AIDS virus," Horwitz recently told *Discover*.

Nussbaum says Kaposi's sarcoma, a rare cancer among the general population that afflicts many HIV-infected people, is an opportunistic infection. But no one has identified an agent that causes Kaposi's sarcoma, a requirement for calling it an infection.

Similarly, Nussbaum claims that the drug CD4 operates like AL 721, an experimental drug made from eggs and marketed by a small company. Incredible. The theory behind AL 721 is that it disrupts HIV's membrane, hindering HIV's ability to bind to cells and infect them. Though the drug CD4 and AL 721 have similar objectives—they're both trying to prevent T-4 cell-HIV binding—saying the two operate in similar ways is as meaningful as saying soccer and baseball are similar because both require moving a ball.

Nussbaum, in fact, has a book-sized chip on his shoulder (OK, half a book) about AL 721. He journeys through the arcana of how the drug never received a fair trial by the AIDS doyens, many of whom were hired by Burroughs Wellcome to test AZT. "What happened to AL 721 is a sad, sad story," laments Nussbaum. "The fact is that the people Americans look to for health protection blew it. They fouled up on a spectacular scale."

Though Nussbaum never produces a smoking gun, assume he's right—assume the apparent conflicts of interest indeed colored the AZT crowd's judgment. Granted, this a sad, sad story. But it says more about the players and the system than the drug. Nussbaum's enthusiasm for AL 721 clouds this point, leaving the reader with the impression that a great drug is being ignored. If AL 721 is so promising, Nussbaum doesn't convincingly make the case. "Scientific research continues to show efficacy," he proclaims near the end of the book, describing positive results from a test-tube experiment. "Efficacy" is a loaded word in science, typically reserved for the final phase of drug tests in humans.

As it stands, we're never given sturdy evidence that AL 721 is any more effective against HIV infection than dozens of other compounds that look interesting in the test tube. When Nussbaum ridicules NIH AIDS bigdome Tony Fauci for wanting to "debunk" AL 721 because he feared it was keeping people away from other, more promising drugs, it's easier to side with Fauci than Nussbaum.

The ultimate insult caused by Nussbaum's disregard for science is that he fails to inform the reader that the deck is stacked against every potential anti-HIV drug. The villain? Not the cadre of AZT cheerleaders. Not the NIH, the FDA, the White House, or the Congress. Sure, the slothful government should act less like, well, the government. Sure, the product from the small drug developer should receive the same attention as the one from the mammoth pharmaceutical house. But *Good Intentions* accords these factors too much import. HIV and its evil ways are to blame. Blast all the wrongdoers to hell and ship in the most brilliant, incredibly imaginative scientists on earth: They'd still have a vexing, humbling problem to solve. Good intentions notwithstanding.

—Jon Cohen

Turks and Brahmins. Ellen Joan Pollock. *Simon & Schuster, $21.95.* Until the mid-eighties, lawyers at New York's Milbank, Tweed, Hadley & McCloy, once the largest law firm in the country, wore nearly identical dark blue suits to their offices at One Chase Manhattan Plaza, headquarters of their chief client, the Chase Manhattan Bank. And not just any dark blue suit, but a boxy, ultra-staid version—always with a plain white shirt, never stripes—that was the Milbank livery, as peculiar to the firm as its custom of a partners' lunch every Monday at the Down Town Association, a private club a block away from the Milbank offices. As compensation for attendance, each partner got a crisp $10 bill fresh from the nearby Federal Reserve.

Besides Chase, Milbank's other major client for at least six decades was the Rockefeller family, which owned Chase. Strong personal alliances between Milbank partners and the Rockefellers ensured that the family and the bank would account for most of Milbank's business for years. The firm did all the legal work on the building of Rockefeller Center.

Milbank carefully nurtured its "insular, noble culture," to use the words of Ellen Joan Pollock, a *Wall Street Journal* writer and editor, who in this book chronicles the firm's more recent vagaries as its ties to Chase and the Rockefellers loosened. For 50 years, from 1931 to 1981, the firm never took on a "lateral" partner from the outside; all its 65 or so partners had apprenticed with the firm as salaried associates straight from mostly Ivy league law schools. Until 1984, no Milbank partner ever had left the firm to become a lateral-hire partner elsewhere. The partner compensation system was an old-fashioned "lockstep" one, in which the size of a partner's profit share depended strictly on seniority, not on rainmaking skills (Milbank partners flinched at the very idea of making rain) or hours billed.

By 1984, the 200-lawyer Milbank was an almost laughable anachronism, left behind in the great law office revolution of the late seventies and early eighties, when both old and new firms

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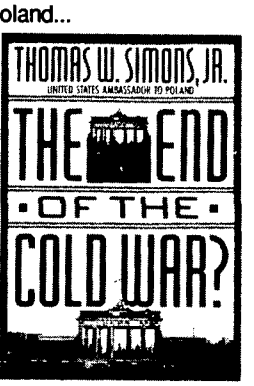

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ballooned in size, dumped lockstep compensation for "merit" systems that rewarded achievers, raided each other for star players, and hustled ceaselessly for clients. If Milbank carefully recruited its associates for future partnership, other firms "leveraged" them, as the jargon goes, hiring them in quantity, working them around the clock (at huge salaries), and using their billings as profit centers. By 1984, Milbank's total revenues were $74 million and its profits $370,000 per partner. By contrast, the 500-lawyer Skadden, Arps, Slate, Meagher & Flom, with a finger in almost every merger-and-acquisitions pie of the eighties, ranked first in the country with $129 million in revenues and $795,000 in profits per partner.

Pollock's book narrates how, during the latter half of the eighties, a determined group of partners transformed Milbank into a high-grossing late-20th century megafirm, more than doubling its size and luring on board such glamorous laterals as former Abscam prosecutor Thomas Puccio and the Asian-business rainmaking dynamo, Alice Young. This meant changing from lockstep to merit pay, a gruesome process in which eight longtime partners saw their draws cut and two others were pushed out. But by 1989, revenues jumped to $178.7 million with $664,000 in profits per partner. The architect of all this was Jacob D. Worenklein, who arrived at Milbank in 1973 and sold himself to clients as an "entrepreneurial counselor," Pollock writes, who would not simply document deals but present clients "with innovative possibilities and sometimes even business partners that added value to the pure legal work Milbank performed." This year, Worenklein became the firm's chairman.

Pollock was formerly a senior writer with *The American Lawyer,* the magazine that lawyer-journalist Steven Brill started in 1978 to chronicle and to some extent promote the transformation in the practice of law that the Milbank story exemplifies, a transformation that is part of the larger displacement and decay of what Tom Wolfe has called "the old Protestant aristocracy" that once ruled the United States. Pollock has done her reporting homework—although *Turks and Brahmins* has a trudging, dutiful quality that fails to bring to life the numerous strong personalities on both sides of the Milbank revolution.

More disappointing, the book fails to examine the implications of the commercialization of law practice. Since the late seventies, when the Supreme Court approved professional advertising, self-promotion has been a big part of almost every lawyer's operations. The relationship between lawyer and client, however, is not supposed to go on at arm's-length, with each party pursuing its own self-interest to some possible mutual benefit. The lawyer is supposed to be the client's agent and fiduciary; the client's interests—and only the client's interests—must prevail. The potential for conflict of interest when lawyers hustle themselves and get into their clients' business ventures is vast and demoralizing.

Similarly, what does it mean to belong to a law firm if one is in constant competition with one's partners? These days, a firm like Milbank becomes merely a glorified office-sharing arrangement, with access to a nostalgic letterhead and a pool of bright associates to exploit. No wonder young lawyers are starting to view firms as Ponzi schemes, where, by the time they are seasoned enough to qualify as partner, not only are there no slots open, but most of the partners who hired them are gone.

Milbank, however, seems to have had no choice but to do what it did. Chase Manhattan recently announced a $1 billion quarterly loss and 5,000 impending layoffs, and last year, a Japanese developer bought a majority interest in Rockefeller Center. In the face of such reverses the old Milbank would have died. Instead it chose to save its life by selling its soul.

—*Charlotte Allen*

Making All The Difference: Inclusion, Exclusion and American Law. Martha Minow. *Cornell University Press, $29.95.* When victims of discrimination look to the courts to remedy unequal treatment, a court has the option of ordering special treatment or a remedy requiring equal treatment.

Both of these options, Minow says, have problems: mandating equality of treatment ignores the circumstances that have led to the inequality in the first place, while mandating special treatment marks the plaintiff as "different" and may perpetuate the presumptions of difference that led to the inequality. In this book, Minow tries to resolve this "dilemma of difference," of which affirmative action provides the most familiar example.

The problem of bilingual education offers a clear illustration of the dilemma in a policymaking context. Before 1923, when the Supreme Court handed down its decision in *Meyer* v. *Nebraska* prohibiting such laws, some communities enacted statutes requiring that all education be conducted in English, forbidding the use of any non-English language, even in private schools. The aim was to promote homogeneity in a culture composed, in large part, of recent immigrants. Such a rationale is unattractive because it is largely xenophobic, but it is clear, on the other hand, that an education system does no favors to its students if it fails to make them proficient in the dominant language.

Minow argues that the dilemma of difference is not necessary or natural, but rather proceeds from legal—and popular—conceptions. Individuals or groups raising civil rights issues are treated by the legal system as if they were "different," and these differences nearly always carry a stigma.

Legal analysis treats difference as a deviation from an unacknowledged norm. So when the issue involves gender, men are treated, but never acknowledged, as the norm, while women are considered the deviation. When the issue is race, whites are treated, but never acknowledged, as the norm, while blacks are considered the deviation. In special education cases, it's an intelligence level above a certain limit that's selected as the norm, while an intelligence level below the limit is deemed a deviation.

When a woman is discriminated against, for example, this legal analysis leads to one of the following conclusions: she should be treated as if she were a man (the equality approach), or she should be given special help because of her deviations from the norm (the special treatment approach). But each of these conclusions, as well as the legal remedies

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they give rise to, re-create exclusion —the one by ignoring past wrongs, the other by emphasizing—and stigmatizing—differences.

The challenge is to find a way to analyze "difference" in a way that will not result in this dilemma. This requires understanding the characteristics that differentiate a class without freezing the group in the classification or marking it off as a deviation that must somehow be "dealt with." The answer, Minow suggests, is what she calls the "social relations" approach, which does not concentrate on the rights at stake but instead on how the interests of all parties could be made to intersect at the point of controversy.

Getting away from stridency about rights and bias about differences is a good thing, but Minow's approach simply amounts to overcoming exclusion by overemphasizing inclusion. For example, when she considers the case of deaf students seeking instruction along with hearing students, she rightly sees that the issue is not only the rights of the deaf students (after all, the hearing students and the teacher have a stake in this as well), but her solution is a howler: all the students should learn sign language. Nice idea in principle, and it would have some real social benefits for all the students, but it also means a net educational loss for all if it's a class in, say, French.

Minow is correctly apprehensive that her approach will be understood as nothing but a plea for compassion and enlarged understanding of the disadvantaged. She claims to have in mind a project more radical than this, part of a broad range of contemporary developments in philosophy, literary criticism, psychology, and feminist theory. She remains vague, however, about how the legal system can implement the social relations approach to resolve the dilemma of difference. She says, "Legal rights . . . should be understood as the language of a continuing process rather than as fixed rules." This has a fine academic ring to it, but the victims of discrimination are hardly interested in an invitation to join a "continuing process," and courts carrying a crushing case load will be no more interested.

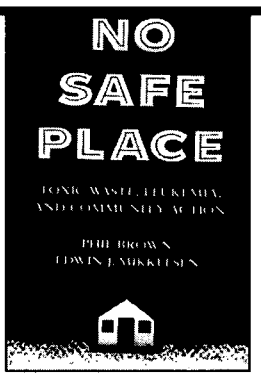
But at the same time that Minow's attempted resolution of the dilemma of difference seems merely academic, it may also be, from another perspective, entirely realistic. Calling for a continuing dialogue among parties and an unceasing suspicion of the categories used in analysis demands that our conception of the "legal system" be expanded to include policymaking and even individual human relations. This seems historically right and even practical in the era of the generally unsympathetic Rehnquist court: Minow's cause will have to find an arena beyond the courtroom if it is to prosper. For all her aspirations to radical theory, the "social relations" approach sounds a lot like something we already know well. It's called politics.

—*Stuart Johnson*

Blood, Class, and Nostalgia: Anglo-American Ironies. Christopher Hitchens. *Farrar, Straus & Giroux, $22.95.* This is a surprisingly insightful, generous-spirited, informative, and honest book about the Anglo-American "special relationship" and its psychological effects on each side.

It may seem a little graceless to dwell on the surprise factor, but it's relevant in this case—as it was with George Will's *Men at Work.* As Joseph Nocera pointed out in *The New Republic*, Will's book about baseball was vastly superior to his normal writing about politics because Will had, at last, bothered to go out and act like a reporter. Hitchens has in the past been known for a certain flipness—and for playing to the notorious American weakness for British "culture" and "style." The free-loading British journalistic character in *The Bonfire of the Vanities* is generally assumed to be modeled on Hitchens as well as Alexander Cockburn. But in this book, Hitchens is witty and genuinely funny rather than arch, and he laughs at (among many other things) the games anyone with any kind of British accent can play in the U.S. He says that the breathless host of a CNN chat show, "Sonia Live," asked him for the latest rumors about Charles and Di. "When I said that I thought the whole thing was a press bonanza and that the obsession with monarchy was beginning to bore even the British, the tempestuous Sonia was appalled. '*Mister* Hitchens,' she intoned in reproof, 'how can you sit there with that lovely English accent and say such a thing?'"

About half the book concerns the process through which, from the 1920s to the 1960s, the United States "took receivership" for the British empire. During the Margaret Thatcher era, the British government has often acted as if it were honored merely to stand on the same side of international issues as the mighty United States. *The Economist,* which has become a kind of voice-of-Britain to the American elite, now makes it sound as if the world could want no better hegemon than America has been. But Hitchens shows that this was not at all the British attitude when there was still a chance of limiting American power and sustaining Britain's worldwide influence. For instance, in 1927, when Winston Churchill was Chancellor of the Exchequer, he spoke to his colleagues in the Cabinet with a bluntness that future British politicians simply could not afford: "We do not wish to put ourselves in the power of the United States. We cannot tell what they might do if at some future date they were in a position to give us orders about our policy, say, in India



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or Egypt or Canada, or any other great matter behind which their electioneering forces were marshalled."

The book contains a long, poignant section on the wartime correspondence between Roosevelt and Churchill; as the years go by, Churchill moves from the hope that he can manipulate the naive Americans to the galling realization that he must beg for their support. For instance, when Roosevelt decided late in the war to transfer captured Italian ships to the Soviet navy, Churchill was stung. "Considering Great Britain has suffered at least 20 times the naval losses of your fleet in the Mediterranean and has been fighting the Italians since June 1940, we had hoped to be consulted or at least informed beforehand." He dashed off this protest to Roosevelt—and then, doubtless with a sigh, went back and carefully deleted it from his message.

From time to time, Hitchens writes, American leaders could be flattered or tricked into doing what Britain wanted, but generally they observed Britain's diminution with a gimlet eye. Americans now grumble that Japan and Germany should act more grateful for past favors done, but Hitchens implies that they are being much more considerate of America's distress than the U.S. was of Britain's.

In the era of "Masterpiece Theatre," and of *Vanity Fair,* and of the Ralph Lauren "I am an Edwardian aristocrat" catalogs, and of American fawning over Britons as different in merit as Steven Hawking and Robin Leach, it is hard for most Americans to remember that the "special relationship" ever contained elements of deep strain. But Hitchens shows that anti-British sentiment has been significant until quite recently, when England ceased to be a serious competitor. During World War I, the idea that Britain should be left to stew in its imperialist juices was an important isolationist theme. Hitchens says that Churchill always resented Roosevelt's refusal to visit Britain after the U.S. entered World War II. But Roosevelt told him that "England must be out for me for political reasons," and he "never forgot the reserve strength of anti-British and 'anticolonial' feeling" in the United States. Even *Life* magazine, owned by the stoutly pro-British Henry Luce, published an "Open Letter to the People of England" in 1942, notifying them that "one thing we are sure we are *not* fighting for is to hold the British empire together."

Now that Britain has been reduced to a theme park in America's imagination, the United States has, Hitchens shows, let English culture become a prop for the worst and most un-American forms of social behavior. This is Hitchens's other main subject: the way that Americans start sounding and acting like Englishmen when they want to set themselves apart from others in their own country. Britain obviously did contribute some democratic impulses to America, Hitchens points out: " . . . the astonishing and germinal moral energy of Thomas Paine; the Welsh coal miners who fled their grim valleys and whose sad place names still dot the map of Pennsylvania. But these are preeminently not the sorts of image that leap to mind when the word 'Brit' is uttered in today's America." When Harold Macmillan concluded that the shift of power from Britain to America had irreversibly occurred, he started talking more and more often about the "special relationship," which, Hitchens says, Macmillan intended "to be a relationship between conservative forces. The Americans were to supply the capital, and the British were to provide the class. This would give the British imperial manner a fresh lease, and lend some much-needed tone to the grandiosity of the American century." The United States can be friendly with Italy or even the Soviet Union without necessarily wanting to take on Italian or Russian social traits. Hitchens suggests that a similar critical distance would be healthy in America's view of Britain.

—James Fallows

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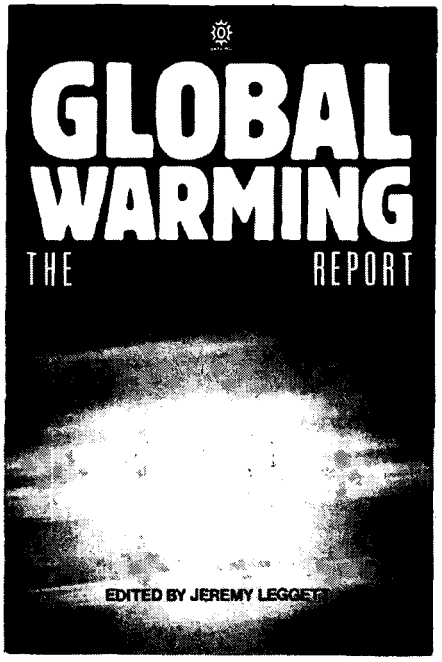

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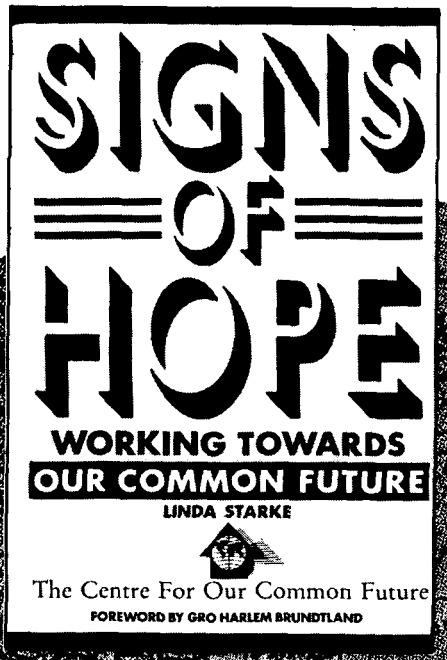

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